

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

IN RE: NATIONAL : MDL No. 2804
PRESCRIPTION OPIATE :
LITIGATION : Case No. 17-md-2804
:
APPLIES TO ALL CASES : Hon. Dan A. Polster
:
:

HIGHLY CONFIDENTIAL

SUBJECT TO FURTHER CONFIDENTIALITY REVIEW

- - - -

JANUARY 16, 2019

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VIDEOTAPED DEPOSITION OF GEORGE CHUNDERLIK,
taken pursuant to notice, was held at Marcus &
Shapira, One Oxford Center, 35th Floor, Pittsburgh,
Pennsylvania 15219, by and before Ann Medis,
Registered Professional Reporter and Notary Public in
and for the Commonwealth of Pennsylvania, on
Wednesday, January 16, 2019, commencing at 9:04 a.m.

- - - -

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P R O C E E D I N G S

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THE VIDEOGRAPHER: We are now on the record. My name is Adam Balenciaga for Golkow Litigation Services. Today's date is January 16, 2019, and the time is 9:04 a.m.

This video deposition is being held at Marcus & Shapira, LLP, One Oxford Centre, 35th Floor, Pittsburgh, PA 15219, in the matter of National Prescription Opiate Litigation, MDL No. 2804, for the United States District Court for the Northern District of Ohio, Eastern Division.

The deponent is George Chunderlik.

All counsel will be noted on the stenographic record. Will all counsel identify themselves.

MR. ROTTINGHAUS: This is Tom Rottinghaus and Ty Hudson on behalf of the plaintiffs.

MS. BOURIAT: Jennifer Bouriat from Pietragallo on behalf of Cardinal.

MR. PAUL: Raj Paul of Covington & Burling on behalf of McKesson.

MR. BARNES: Robert Barnes, Marcus & Shapira, on behalf of HBC Service Company.

1 MR. KOBRIN: Josh Kobrin, also Marcus &
2 Shapira, on behalf of HBC Service Company.

3 MR. ROTTINGHAUS: Is anyone appearing by
4 telephone?

5 MR. MCCORMICK: Good morning. This is
6 Sean McCormick from Arnold & Porter for the Endo
7 and Par defendants.

8 MR. HIMMEL: This is Brian Himmel from
9 Reed Smith for Amerisource Bergen Drug Company.

10 MR. ROTTINGHAUS: Anyone else?

11 MS. WOLTER: This is Alexandra Wolter
12 from Jones Day for Walmart, Inc.

13 THE VIDEOGRAPHER: The court reporter is
14 Ann Medis and will now swear in the witness.

15 GEORGE CHUNDERLIK,
16 having been first duly sworn, was examined
17 and testified as follows:

18 EXAMINATION

19 BY MR. ROTTINGHAUS:

20 Q. Sir, my name is Tom Rottinghaus. I'm
21 here with my colleague, Ty Hudson. We're going to
22 be asking you some questions today about your
23 involvement primarily in the HBC warehouse for
24 Giant Eagle. Okay?

25 A. Okay.

1 Q. Would you please go ahead and introduce
2 yourself for us.

3 A. Yes. My name is George Chunderlik.

4 Q. Mr. Chunderlik, you currently still work
5 for what's known as Giant Eagle?

6 A. I do, yes.

7 Q. We're going to be probably sitting here
8 for a few hours today, and our goal is not to
9 harass you in any respect, but we're going to have
10 a lot of documents we're going to be asking you to
11 look at at various points in time.

12 It's going to be very important for us to
13 make sure that we are communicating. In other
14 words, I want you to make sure you're
15 understanding my questions I ask you today, and
16 certainly I want to make sure I give you an
17 opportunity to completely respond to any questions
18 I ask.

19 So if I interrupt you at any point in time
20 before you're finished, I want you to please stop
21 me and let me know you're not finished so that I
22 can give you an opportunity to finish your answer.
23 Okay?

24 A. Okay.

25 Q. You understand that you have just taken

1 an oath to tell the truth just like the oath you
2 would take if you were in a courtroom when this
3 case goes to trial?

4 A. Right.

5 Q. It's my understanding that you may not
6 be available at the time of trial to come testify
7 live, so I assume you also understand that you're
8 being videotaped here today in case you're unable
9 to testify live so that, if necessary, portions of
10 your testimony can be played to the court and jury
11 at the time of trial.

12 A. I do.

13 Q. There are going to be times when I
14 probably ask you if you can give me a "yes" or
15 "no" answer to a question. You may not be able to
16 do that all the time. That's fine. If you're
17 able to, I want you to do so. But if not, just
18 tell me why you can't. And I'm going to certainly
19 give you a chance to explain. Okay?

20 A. Okay.

21 Q. Now, you're here with counsel today?

22 A. I am, yes.

23 Q. We don't get to hear what you and your
24 attorneys talked about. So my question isn't
25 intended to delve into that issue. But I'm

1 wondering how much time approximately have you
2 spent getting ready for your deposition?

3 A. Approximately two days, 8-hour, 9-hours
4 days getting prepared.

5 Q. And then I assume that you've taken an
6 opportunity to at least look at some of the
7 documents that you might get asked about today?

8 A. I have, yes.

9 (HBC-Chunderlik Exhibit 1 was marked.)

10 BY MR. ROTTINGHAUS:

11 Q. One of the first things I want to ask
12 you about is your background with the company. We
13 have marked as Plaintiffs' Exhibit No. 1 a
14 document that I believe is in front of you. And I
15 will represent to you this is not a document that
16 was provided to us by Giant Eagle or HBC
17 warehouse. It's a document we pulled off of the
18 internet through a site called LinkedIn, which I'm
19 assuming you are familiar with.

20 A. I am familiar with LinkedIn, yes.

21 Q. Those of us here who are old enough
22 probably used to refer to someone's background as
23 their CV or resum .

24 A. Correct.

25 Q. On LinkedIn it's my understanding that

1 someone is allowed to basically put their resum
2 online for individuals to see if they wish to do
3 so.

4 A. Yes.

5 Q. And that's what you have done
6 voluntarily?

7 A. Yes.

8 Q. It's my understanding from looking at
9 Exhibit 1 that you have been employed by the Giant
10 Eagle or HBC entity for at least, I guess, 11
11 years now.

12 A. Yes; that's correct.

13 Q. Under experience on Exhibit 1, it says
14 manager, pharmacy training and compliance.

15 A. That's correct.

16 Q. Let's kind of back up to before Giant
17 Eagle. I see that you went to college and
18 finished with a bachelor of science in pharmacy in
19 approximately 1980.

20 A. That is correct, yes.

21 Q. Tell us from 1980 until 2008 what you
22 did.

23 A. From 1980, starting in 1980, my first
24 job in pharmacy as a pharmacist was with People's
25 Drug in Maryland, Langley Park, Maryland. For

1 People's I managed one store. I was a staff
2 pharmacist at the first store that I was employed
3 with People's. Then I moved to a pharmacy
4 management position.

5 I left People's in -- I believe it was
6 February of 1982, and I actually went to work for
7 Giant Eagle as a pharmacist at that point in time.
8 So from 1982 up until 1990, I was a pharmacist
9 working at the store. I managed three different
10 pharmacies for Giant Eagle during that period of
11 time.

12 In 1990 I did take a position, an
13 office-based position in our pharmacy services
14 area where I started out doing training. We were
15 putting in a new software program, and I was doing
16 training of pharmacists and pharmacy personnel on
17 that program.

18 And then in 1992 after the rollout was
19 finished, I stayed in the corporate office and was
20 mainly in an administrative position in support in
21 the pharmacy services area, support for managed
22 care, support for our retail pharmacists, did a
23 lot of computer training as we had new pharmacists
24 and new team members come on. So I was in that
25 position until March of 2003.

1 At that point in time, I did leave Giant
2 Eagle, and I took a job with a consulting firm in
3 Pittsburgh called Pharmacy Healthcare Solutions.
4 It was a company that performed consulting
5 services in the retail pharmacy industry, in the
6 pharmaceutical industry and in the managed care
7 industry.

8 I was with PHSI for approximately five years.
9 And that brought me to my current position with
10 Giant Eagle. I actually left PHSI in June of 2008
11 when I came back to Giant Eagle.

12 At that time I was in a training capacity. I
13 was managing some of our pharmacy trainers that
14 were responsible for training new pharmacy
15 technicians that came on with Giant Eagle at that
16 point. That's where in my LinkedIn profile where
17 manager of pharmacy training came into being. It
18 wasn't really until -- and I really haven't
19 updated my LinkedIn profile with my official title
20 that I have right now as senior manager of
21 pharmacy compliance.

22 Q. What year did you take on the senior
23 manager of pharmacy compliance?

24 A. I actually became the senior manager of
25 pharmacy compliance in -- I believe it was about

1 the May or June timeframe of 2016. And that
2 official role was senior manager of pharmacy
3 compliance.

4 Q. I'm going to have some follow-up
5 questions about that general background. Are you
6 finished with your general background?

7 A. Yes, yes.

8 Q. I appreciate it. So it's my
9 understanding you actually worked in the State of
10 Maryland as a staff pharmacist when you first got
11 out of school.

12 A. That's correct.

13 Q. Before I forget, have you ever worked as
14 a pharmacist in the State of Ohio?

15 A. I do not have a license.

16 Q. And I assume you have worked as a staff
17 pharmacist or had a license as a pharmacist in the
18 State of Pennsylvania?

19 A. Yes.

20 Q. Any other states?

21 A. Maryland. I still maintain my Maryland
22 license.

23 Q. Those two states?

24 A. Yes.

25 Q. Let me ask you a couple of questions

1 about your position as a consultant between 2003
2 and 2008. I believe you said it was -- the
3 initials are PHSI?

4 A. Yes, PHSI, Pharmacy Healthcare
5 Solutions.

6 Q. Thank you. In that role, did you
7 provide any consulting expertise in the area of
8 compliance?

9 A. No.

10 Q. You probably understand, but we should
11 probably make sure we're communicating when I use
12 the word compliance. I assume you agree that any
13 pharmacist has to comply with certain laws in
14 order to be a pharmacist.

15 A. Yes.

16 MR. KOBRIN: Object to form.

17 BY MR. ROTTINGHAUS:

18 Q. And similarly, HBC warehouse as a
19 distributor between 2009 and 2014 also had an
20 obligation to comply with certain laws and
21 regulations?

22 A. Yes.

23 Q. Between 2009 and 2014, did you have any
24 role in managing compliance for HBC warehouse?

25 A. I didn't manage compliance, but I was

1 involved in some compliance activities during that
2 period of time.

3 Q. We'll be talking about some of those,
4 and we'll come back to that then.

5 So would it be fair to say that prior to
6 coming back to Giant Eagle in 2008, you did not
7 have any role in overseeing or managing compliance
8 for any entity or company?

9 A. I did not.

10 Q. Let's talk a little bit about what you
11 have been doing for Giant Eagle and the HBC
12 warehouse since coming back to Giant Eagle in
13 2008. And I appreciate the fact that you had been
14 with them before, but my questions now are going
15 to be focusing on that timeframe, from 2008 until
16 the present. And then I might even limit it a
17 little bit more than that at times. Okay?

18 Can you tell us what year you believe you
19 started to provide some role for HBC warehouse in
20 the realm of compliance?

21 MR. KOBRIN: Object to form.

22 THE WITNESS: My recollection would be
23 somewhere in the latter quarter, calendar quarter
24 of 2012.

25

1 BY MR. ROTTINGHAUS:

2 Q. And what was it in the latter part of
3 2012, to the best of your memory, that caused you
4 to take on some role in compliance for HBC
5 warehouse?

6 A. It was just part of my role with Giant
7 Eagle, because I did have some knowledge of
8 business operations and those types of things.

9 Q. You certainly had some familiarity with
10 what a pharmacist individually has to do to comply
11 with laws and keep his or her license for being a
12 pharmacist?

13 A. Yes.

14 Q. At some point in time in 2012, did you
15 undergo additional training or some type of
16 education to allow you to gain a better
17 understanding of what laws or regulations from a
18 state or federal level that HBC warehouse as a
19 distributor needed to follow?

20 A. Nothing, no formal education in that
21 area.

22 (HBC-Chunderlik Exhibit 2 was marked.)

23 BY MR. ROTTINGHAUS:

24 Q. Let's look for a minute at what's been
25 marked as Exhibit 2. You'll see we've got little

1 stickers. And I apologize. Some of them are a
2 little hard to see probably, but I think on the
3 bottom right-hand corner, you'll see what we
4 marked as Exhibit 2.

5 A. Yes.

6 Q. We've also got it up on the screen for
7 you, I think. Do you see it on the screen?

8 A. Yes.

9 Q. I want you to know we're trying to make
10 sure we have the same document on that screen for
11 everyone to see as the same hard copy that's in
12 front of you. And you're welcome to look at
13 either one. Okay?

14 A. Okay.

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 [REDACTED]

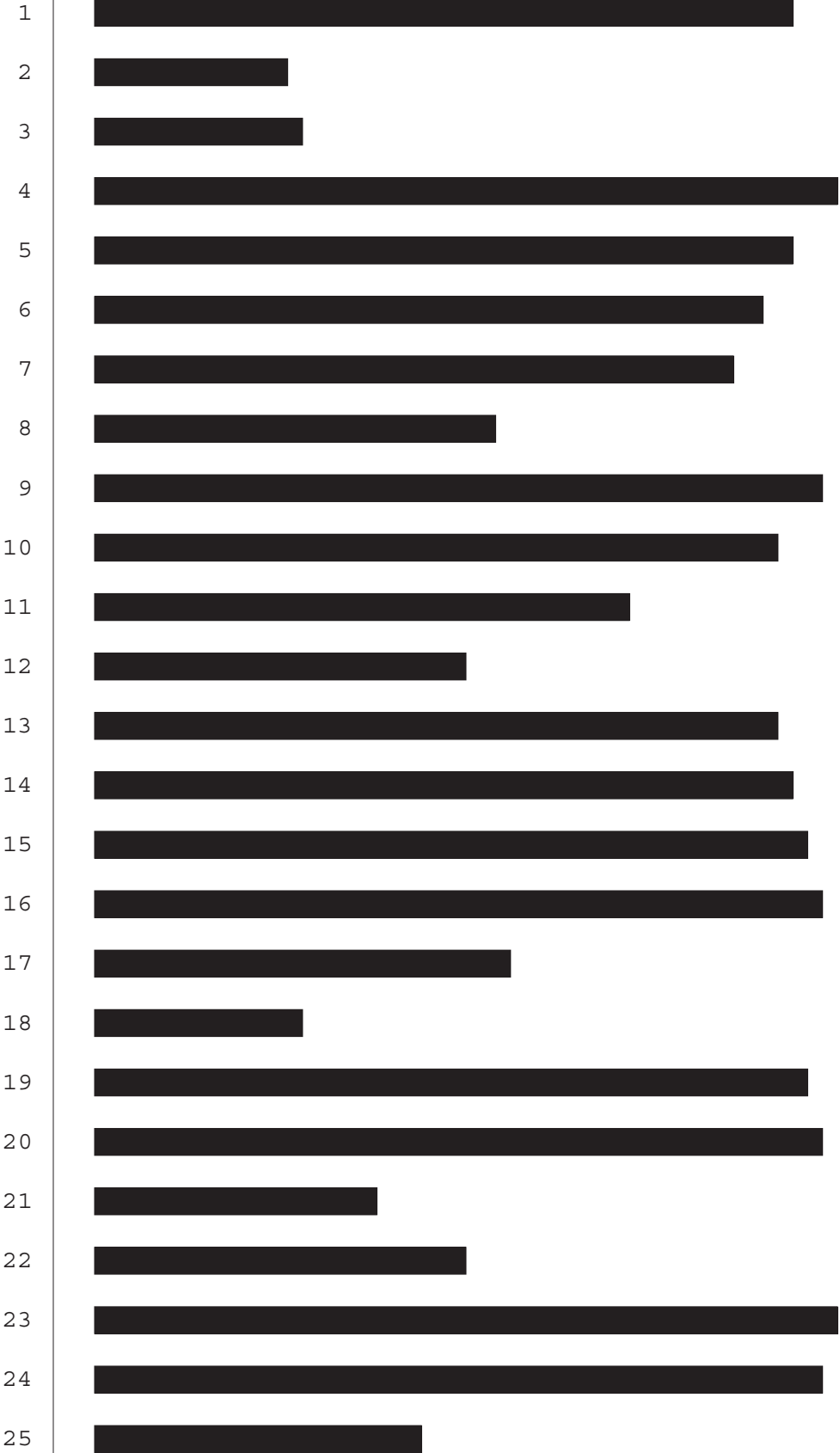
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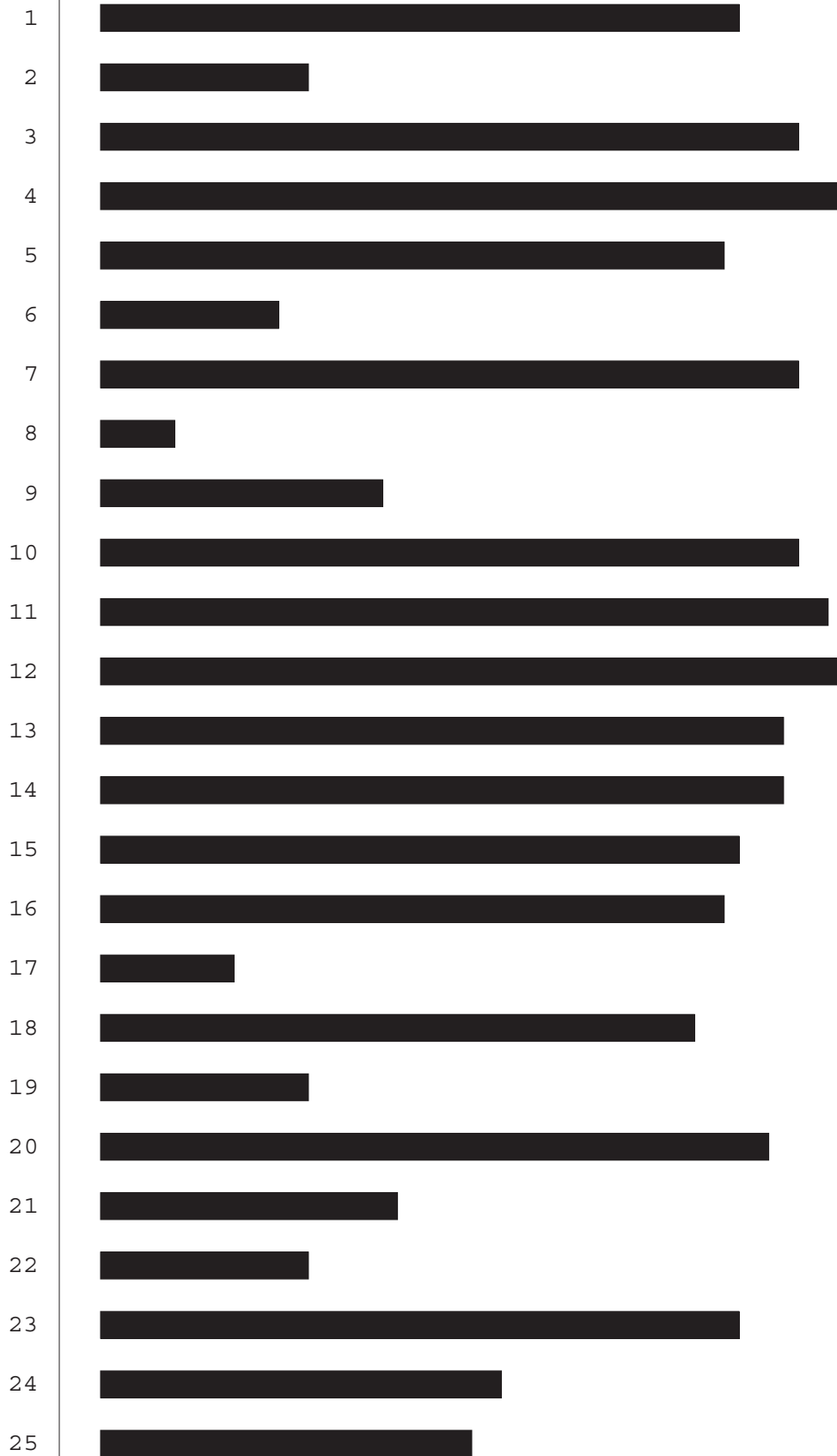
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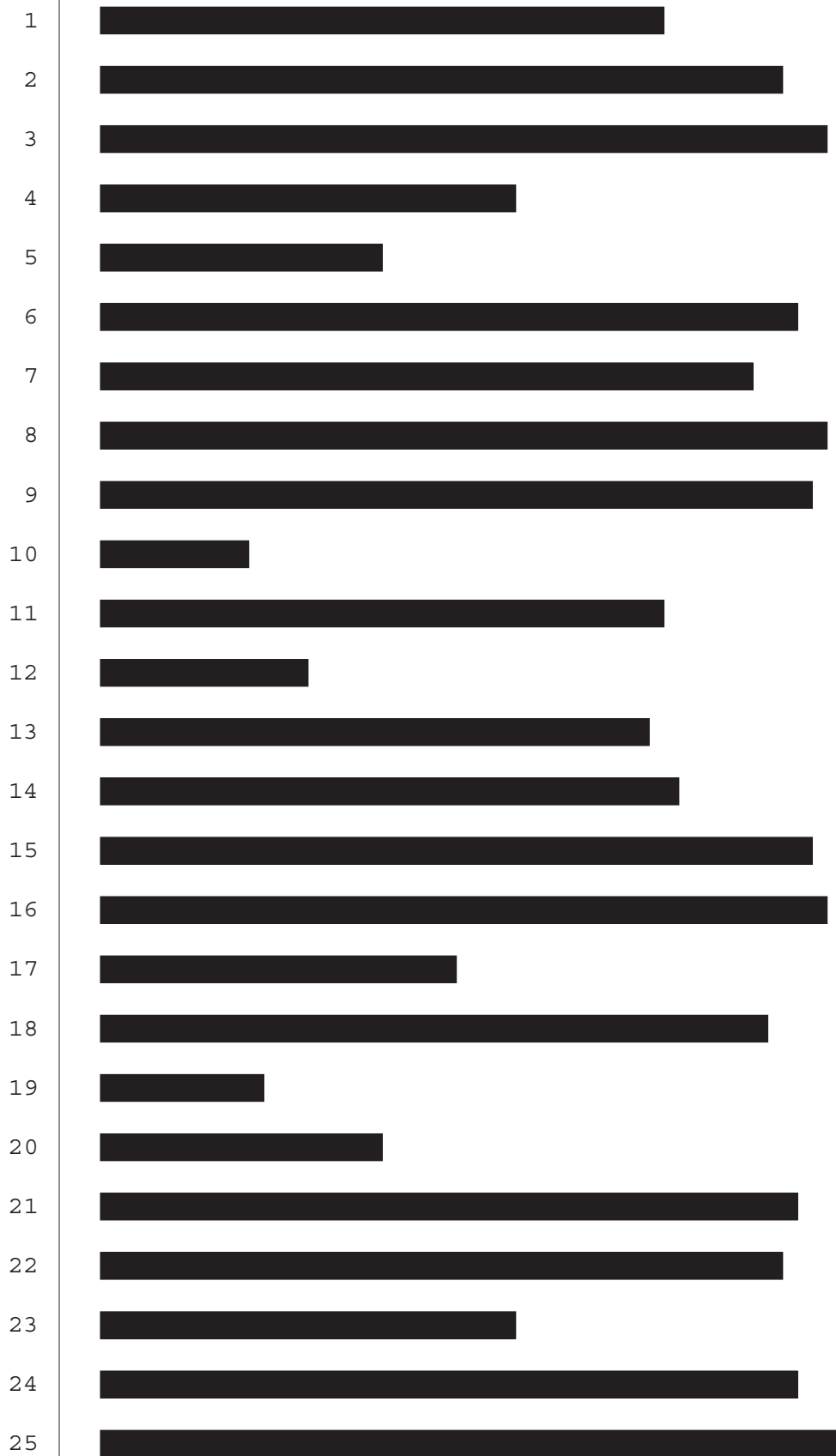
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[REDACTED]

Q. You understand that as a distributor of hydrocodone combination products or controlled substances between 2009 and 2014, that HBC warehouse had an obligation to comply with the Controlled Substances Act and all of its provisions?

A. Yes.

Q. Did you ever undergo any training or seminars or education either at or prior to the latter part of 2012 to help you better understand what obligations HBC warehouse might have in order to comply with the Controlled Substances Act?

A. Nothing specific.

Q. When you say nothing specific, it causes me as an attorney to want to ask: Was there anything more general then that you received in terms of training or knowledge?

A. I did a lot of reading.

1 Q. At the office you would try to read up?

2 A. Correct.

3 Q. Did the company make available to you
4 any consultants or experts to help you better
5 understand what the obligations would be for HBC
6 warehouse in order to comply with the Controlled
7 Substances Act when you became the manager of
8 compliance in the latter part of 2012?

9 A. No.

10 Q. Did you ask for any additional resources
11 or training?

12 A. I knew that I could rely on other
13 individuals to help me if I had any questions in
14 those areas.

15 Q. You say you did a lot of reading. Do
16 you remember what it was you decided you should
17 read in order to better acquaint yourself with the
18 obligations to comply with the Controlled
19 Substances Act in the latter part of 2012?

20 A. The DEA pharmacists manual.

21 Q. I'm sorry. I'm going to stop you, and I
22 don't mean to interrupt, but I lost you when you
23 gave me that abbreviation.

24 A. The DEA pharmacists manual, and I also
25 reviewed the distributor manual as well.

1 Q. Do you remember who published the
2 distributor manual that you're talking about?

3 A. It would have been the Drug Enforcement
4 Agency, the DEA.

5 Q. And is it the best of your memory that
6 you became more interested in acquainting yourself
7 with those obligations when you did agree to take
8 on the role of manager of compliance for the HBC
9 warehouse in the latter part of 2012?

10 A. Yes.

11 Q. Because you knew it was important that
12 HBC warehouse comply with the law?

13 A. Yes.

14 Q. Do you remember attending any seminars
15 or continuing education classes or any meetings to
16 in any way educate yourself or better acquaint
17 yourself with the obligations of HBC warehouse to
18 comply with the Controlled Substances Act at or
19 near the time you took over as manager of
20 compliance?

21 A. Not at that point in time.

22 Q. At at some point in time you did do
23 that?

24 A. I did.

25 Q. Do you remember when?

1 A. The early part -- well, the mid 2016
2 timeframe.

3 Q. Would it be fair to say that prior to
4 the mid 2016 timeframe, you had not gone to any
5 specific conferences or DEA meetings or any
6 educational seminars or something similar to
7 better acquaint yourself or better educate
8 yourself about the obligations of HBC warehouse to
9 comply with the Controlled Substances Act?

10 A. Repeat the first part.

11 Q. Sure. Would it be fair to say that
12 prior to 2016, you had not gone to any
13 conferences, meetings or seminars to better
14 acquaint yourself with the obligations of HBC
15 warehouse to comply with the Controlled Substances
16 Act?

17 A. Yes.

18 MR. KOBRIN: Object to form. Don't say
19 anything with regard to any meetings you may have
20 had or any conferences you may have discussed or
21 anything that might be privileged you had with
22 counsel or anything like that.

23 BY MR. ROTTINGHAUS:

24 Q. I want you to listen to your attorney
25 certainly, but just to make sure I understand, I

1 don't want you to tell me what it entailed.

2 But at any point in time between 2012 and
3 2016 when you took on the role of manager of
4 compliance for HBC warehouse, do you recall
5 meeting with any individuals, whether it be
6 attorneys or consultants, to discuss the
7 obligations of HBC warehouse to comply with the
8 Controlled Substances Act?

9 A. No.

10 [REDACTED]
11 [REDACTED]
12 [REDACTED]
13 [REDACTED]
14 [REDACTED]
15 [REDACTED]
16 [REDACTED]
17 [REDACTED]
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10 Q. Let me back up. Just to make sure --
11 you probably have figured this out. I'm not a
12 pharmacist.

13 From that 2008 to 2012 timeframe, when you
14 were overseeing and had supervisory responsibility
15 for pharmacy training, ultimately, that's training
16 individuals who were working in the Giant Eagle
17 retail pharmacies; correct?

18 A. Yes.

19 Q. This is not training individuals who
20 were working in the HBC warehouse?

21 A. That is correct.

22 Q. And I think you told me and I didn't
23 quite catch it, but I think you told me between
24 2008 and 200- -- up to the present time, you were
25 working -- your office was in the corporate

1 headquarters for Giant Eagle.

2 A. That is correct.

3 Q. How much time were you spending in the
4 HBC pharmacy, the actual physical location? I'm
5 sorry.

6 How much time were you spending between 2012
7 and 2016 at the actual HBC warehouse?

8 A. I made occasional visits to the
9 warehouse.

10 Q. Help me understand what an occasional
11 visit means.

12 MR. KOBRIN: Object to form.

13 THE WITNESS: Maybe once or twice a
14 year.

15 BY MR. ROTTINGHAUS:

16 Q. How far drive-wise is the HBC warehouse
17 from the Giant Eagle headquarters where you
18 officed?

19 A. I would say approximately 40 miles.

20 Q. Let's focus the timeframe a little bit
21 tighter now. Let's talk about from mid 2012 until
22 October of 2014.

23 Can you say here today with confidence that
24 you had actually visited the HBC warehouse during
25 that timeframe?

1 A. Yes.

2 Q. Do you know how many times?

3 A. My recollection would be once or twice.

4 Q. Between mid 2012 and October of 2014,

5 your best recollection is you visited the HBC

6 warehouse two times?

7 A. Once or twice. I can't recall exactly.

8 Q. Do you remember why you went there on

9 that one or two occasions?

10 A. On one occasion we were trying to become

11 VAWD accredited for our HBC warehouse and we had

12 to -- had actually two meetings with those folks

13 in preparation for VAWD accreditation.

14 Q. It's my understanding -- and remind me

15 what VAWD stands for. I know it's an acronym.

16 A. Yes. It's Vendor Accredited Wholesale

17 Distribution.

18 Q. And it's my understanding from speaking

19 with Mr. Carlson in his deposition that it was not

20 required for HBC warehouse to be VAWD accredited

21 in order to distribute controlled substances to

22 some of the states where it had retail pharmacies.

23 A. That's correct.

24 Q. But the State of Maryland, if my memory

25 is correct, at some point in time required VAWD

1 accreditation?

2 A. At some point in time, they did.

3 MR. HUDSON: Can you just make sure I
4 get a moment to object to form.

5 BY MR. ROTTINGHAUS:

6 Q. Regardless of when that took place, is
7 it your best memory that you visited the HBC
8 warehouse whenever Giant Eagle was working on
9 making sure it could continue to distribute
10 medications to the State of Maryland?

11 MR. KOBRIN: Object to form.

12 BY MR. ROTTINGHAUS:

13 Q. I don't want to confuse you. Let me
14 back up.

15 At some point in time, Maryland required VAWD
16 accreditation?

17 A. Yes.

18 Q. That's the best of your memory; right?

19 A. Best of my memory, yes.

20 Q. And that's when HBC warehouse decided it
21 wanted to get the VAWD accreditation; correct?

22 A. Yes.

23 Q. And that's the timeframe in which you
24 remember visiting the HBC warehouse?

25 A. Yes.

1 Q. It was some reason you visited in order
2 to assist in making sure the VAWD accreditation
3 process took place?

4 A. Yes.

5 Q. Let's talk about VAWD accreditation for
6 just a minute. It's my understanding that VAWD
7 provides accreditation to distributors if they
8 fulfill certain criteria for VAWD.

9 A. Correct.

10 Q. Is one of those criteria that
11 distributors enact certain policies, procedures or
12 protocols to be followed?

13 MR. KOBRIN: Object to form. If you
14 know.

15 THE WITNESS: Correct.

16 BY MR. ROTTINGHAUS:

17 Q. That's one of the things when you were
18 managing compliance, you had to at some point find
19 out. If we want to become VAWD accredited so that
20 we can continue distributing to the State of
21 Maryland, I need to figure out or have somebody
22 figure out what we need to do to get accredited;
23 correct?

24 A. Correct.

25 Q. At some point in time it sounds as if

1 you personally tried to make sure you understood
2 what the accreditation criteria were.

3 A. That is correct.

4 Q. And indeed you did find out that in
5 order to become accredited, HBC warehouse had to
6 have certain policies and procedures in writing in
7 place?

8 A. Correct.

9 Q. Now, at the time you remember visiting
10 HBC warehouse on that one or two occasions between
11 2012 and 2014, is it your memory that you were
12 visiting the warehouse to make sure that certain
13 policies or procedures were being followed?

14 A. Not at that point in time.

15 Q. What do you recall going to the
16 warehouse for?

17 A. It was the initial stages of looking
18 over the requirements to determine even if this
19 was something that we would want to pursue.

20 Q. Ultimately, you decided it would be
21 worthwhile to do so?

22 A. At some point we did, yes.

23 Q. And you did ultimately -- after 2014 you
24 did obtain VAWD accreditation for the HBC
25 warehouse?

1 MR. KOBRIN: Object to form.

2 THE WITNESS: No, we did not.

3 BY MR. ROTTINGHAUS:

4 Q. You did for the new Giant Eagle
5 distribution center?

6 A. Yes.

7 Q. Actually, the HBC warehouse never did
8 obtain VAWD accreditation; is that correct?

9 A. That's correct.

10 Q. We'll probably come back to that in a
11 little bit. Let's talk for a minute just about
12 policies and procedures in general. I think I
13 told you we had the opportunity to ask
14 Mr. Millward some questions. It was probably a
15 few weeks ago now. And I've had an opportunity to
16 rereview the testimony he gave under oath when he
17 gave his deposition.

18 It's my understanding that according to
19 Mr. Millward, he was one of the individuals who
20 had responsibility for making sure that policies
21 or procedures would get drafted and ultimately
22 approved for the HBC warehouse.

23 Is that your memory as well?

24 A. That's correct.

25 Q. Were you also an individual who along

1 with Mr. Millward had responsibility for making
2 sure that certain policies and procedures got
3 drafted for the HBC warehouse?

4 MR. KOBRIN: Object to form.

5 THE WITNESS: That's correct.

6 BY MR. ROTTINGHAUS:

7 Q. Was there anyone else who had
8 responsibility for doing so besides you and
9 Mr. Millward?

10 A. Not direct responsibility.

11 Q. When I use the word policies and
12 procedures, I understand or I've been told those
13 can mean different things to different people. I
14 don't mean to really use them interchangeably, but
15 I'm not trying to be confusing either.

16 Do you in your mind distinguish between a
17 written policy and a written procedure?

18 A. At times I do.

19 Q. I want to make sure I understand how you
20 classify a policy and how you classify a procedure
21 so that we can make sure we're communicating well.
22 I'm talking about policies that are in writing and
23 procedures that are in writing. Okay?

24 Let me ask you this: What might be a reason
25 to put -- well, first of all, let me ask you:

1 What do you or how do you define a policy, a
2 written policy for a company?

3 A. I look at written policies as being
4 things that have to be followed 100 percent of the
5 time.

6 Q. Can you give us an example?

7 A. Just in general, if a policy is written,
8 and I use an example of if the policy says you
9 cannot bring a weapon to work, if you bring a
10 weapon to work, you would be automatically
11 dismissed.

12 Q. What about a procedure?

13 A. A procedure could entail there's many
14 different ways to get to the same point. A
15 procedure in my mind is sometimes a standard
16 operating procedure because there's many different
17 ways that things can be done in certain
18 situations. I look at a procedure as to be
19 something that can be followed to get to a certain
20 point.

21 Q. Let me ask you this: If and when HBC
22 warehouse wanted to draft a policy -- let me ask
23 it this way instead. Let's back up.

24 Certainly there are certain things that the
25 law required HBC warehouse to do; correct?

1 A. Correct.

2 Q. If, and I'm saying if, HBC elected to
3 draft a policy to provide guidance to its
4 employees and personnel about following that law,
5 you would indeed call it a policy and not a
6 procedure?

7 MR. KOBRIN: Object to form.

8 THE WITNESS: I'm not quite sure.

9 BY MR. ROTTINGHAUS:

10 Q. Let me ask it a little differently. If
11 HBC wanted to provide information to its personnel
12 about certain laws that must be complied with as a
13 distributor of controlled substances, would you as
14 the person who had some responsibility for
15 drafting policies and procedures elect to call
16 that a policy or a procedure?

17 MR. KOBRIN: Object to form.

18 THE WITNESS: I don't know if there were
19 any hard and fast rules as to how we would
20 determine that.

21 BY MR. ROTTINGHAUS:

22 Q. Would you agree that if you were
23 providing information to your personnel on how to
24 follow the law, you would expect them to try to
25 follow the law?

1 A. Yes.

2 Q. And if you elected to put that
3 information down in a written policy, you would
4 expect your personnel to follow the policy?

5 A. If it was in a written policy.

6 Q. What might be the benefit of putting
7 information down in writing either in a policy or
8 a procedure for employees of HBC warehouse?

9 A. To make sure that -- a reason for -- if
10 a certain law or policy is not followed, there's a
11 little bit more of a level of progressive
12 discipline that may take place.

13 Q. If something -- if a policy is put down
14 in writing or if a procedure is put down in
15 writing, it might facilitate better communication
16 among individuals at the company who are expected
17 to follow the policy or procedure?

18 MR. KOBRIN: Object to form. Assumes
19 facts not in evidence.

20 THE WITNESS: I would suppose so.

21 BY MR. ROTTINGHAUS:

22 Q. It provides some guidance clearly in
23 writing for individuals on what the company
24 expects; correct?

25 A. I would suppose, yes.

1 Q. And that's in part why you sometimes
2 decided to draft policies or procedures for
3 individuals at HBC warehouse; isn't that right?

4 MR. KOBRIN: Object to form.

5 THE WITNESS: There would be a couple,
6 you know, maybe reasons because of an
7 accreditation.

8 BY MR. ROTTINGHAUS:

9 Q. Sure. But you're trying to educate the
10 individuals who work at the company to help them
11 understand what the expectation is; correct?

12 A. Correct.

13 Q. Also, it provides hopefully for more
14 consistent application of any guidance that the
15 company wants to provide for its employees if it
16 puts it down in a policy or procedure; correct?

17 A. I would suppose it does.

18 Q. Ultimately, it allows the company to
19 operate a little more efficiently if everybody is
20 on the same page and understands what the
21 expectation is in writing in terms of a policy or
22 a procedure?

23 MR. KOBRIN: Object to form. Don't
24 speculate about the efficiency of the company.

25 THE WITNESS: I can't speculate on that.

1 BY MR. ROTTINGHAUS:

2 Q. That's fine. Certainly by putting or
3 putting in writing a policy or a procedure, to the
4 extent it talks or discusses compliance with the
5 law, it allows the company to make sure that it
6 has clearly communicated to its employees what the
7 law requires of the company; is that right?

8 MR. KOBRIN: Object to form.

9 THE WITNESS: I would suppose.

10 BY MR. ROTTINGHAUS:

11 Q. I mean, you actually have drafted
12 policies or procedures at times that in some way
13 reflect what the law is and what the company
14 expects its employees to do in order to follow the
15 law; correct?

16 MR. KOBRIN: Object to form.

17 THE WITNESS: In many cases, if it's
18 part of law, we would expect our employees to be
19 following the law.

20 BY MR. ROTTINGHAUS:

21 Q. But to the extent it's -- let me back
22 up. You've drafted policies for your retail
23 pharmacies?

24 A. Yes.

25 Q. You drafted procedures for your retail

1 pharmacies?

2 A. Yes.

3 Q. Did some of those policies and
4 procedures reflect the obligations of those retail
5 pharmacies under the law, whether it be state law
6 or federal law?

7 A. We write policies for internal use, the
8 way we would want to see things done. I can't
9 honestly say that we write policies whenever it is
10 part of law.

11 Q. I think you said it better than I could
12 have. You said you write policies to reflect the
13 way you want things done; correct?

14 A. The way the company would want things
15 done.

16 Q. The way the company would want things
17 done and want its employees to act; is that right?

18 A. I would say yes.

19 Q. And by putting them in writing, it
20 clearly communicates that expectation to
21 employees; is that right?

22 A. As much as possible.

23 Q. And hopefully allows for a more
24 consistent application of whatever the company
25 wants done?

1 A. I would say yes.

2 Q. Because if there's a question in
3 somebody's mind, they have a document they can go
4 to and say what is the policy on this; is that
5 right?

6 MR. KOBRIN: Object to form.

7 THE WITNESS: Occasionally.

8 BY MR. ROTTINGHAUS:

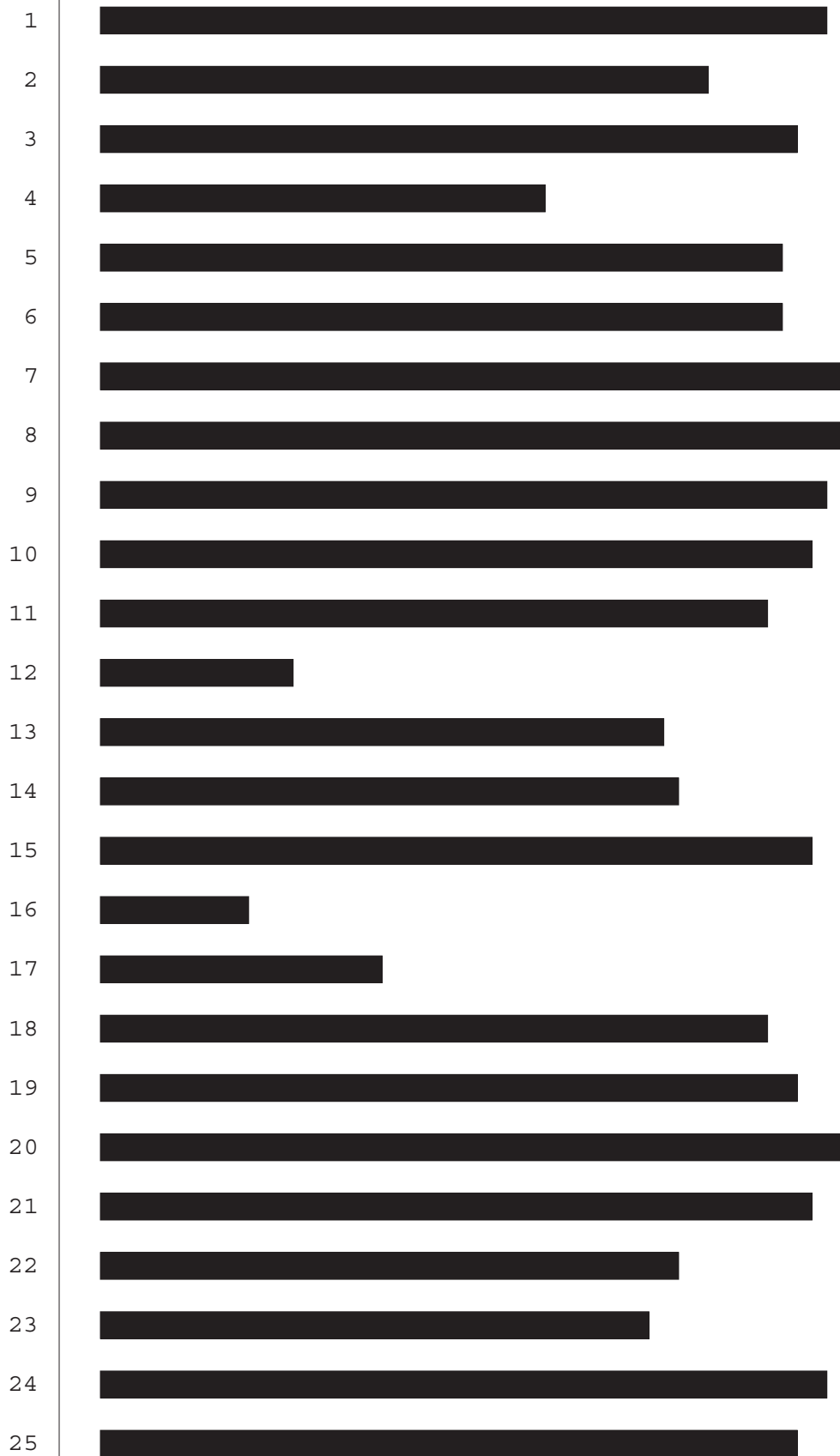
9 Q. Versus just going down the hallway and
10 asking somebody what they normally do, they can go
11 to a book or a manual or a policy and say this is
12 what the company expects; is that right?

13 MR. KOBRIN: Object to form.

14 THE WITNESS: At times, yes.

15 BY MR. ROTTINGHAUS:

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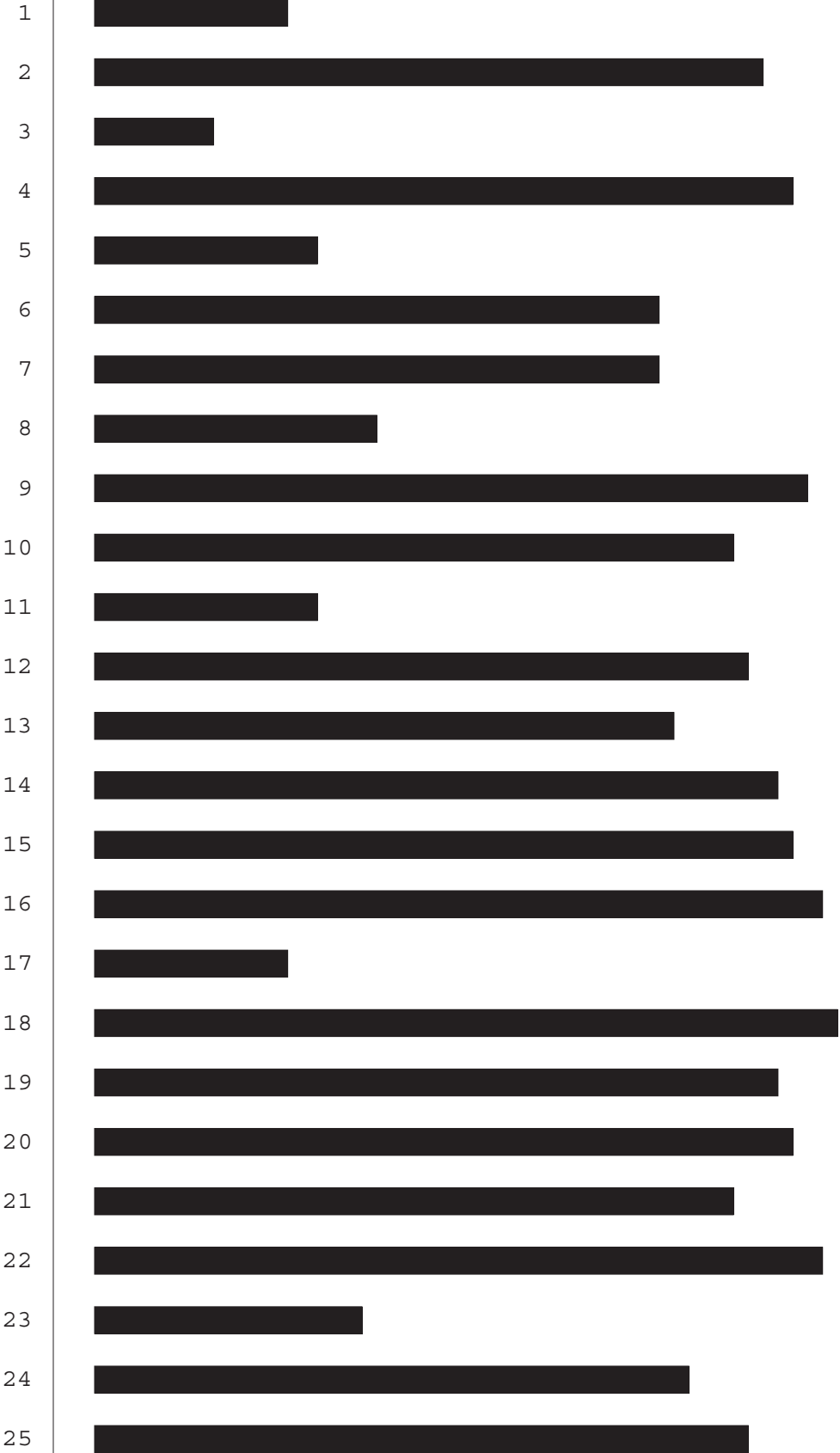
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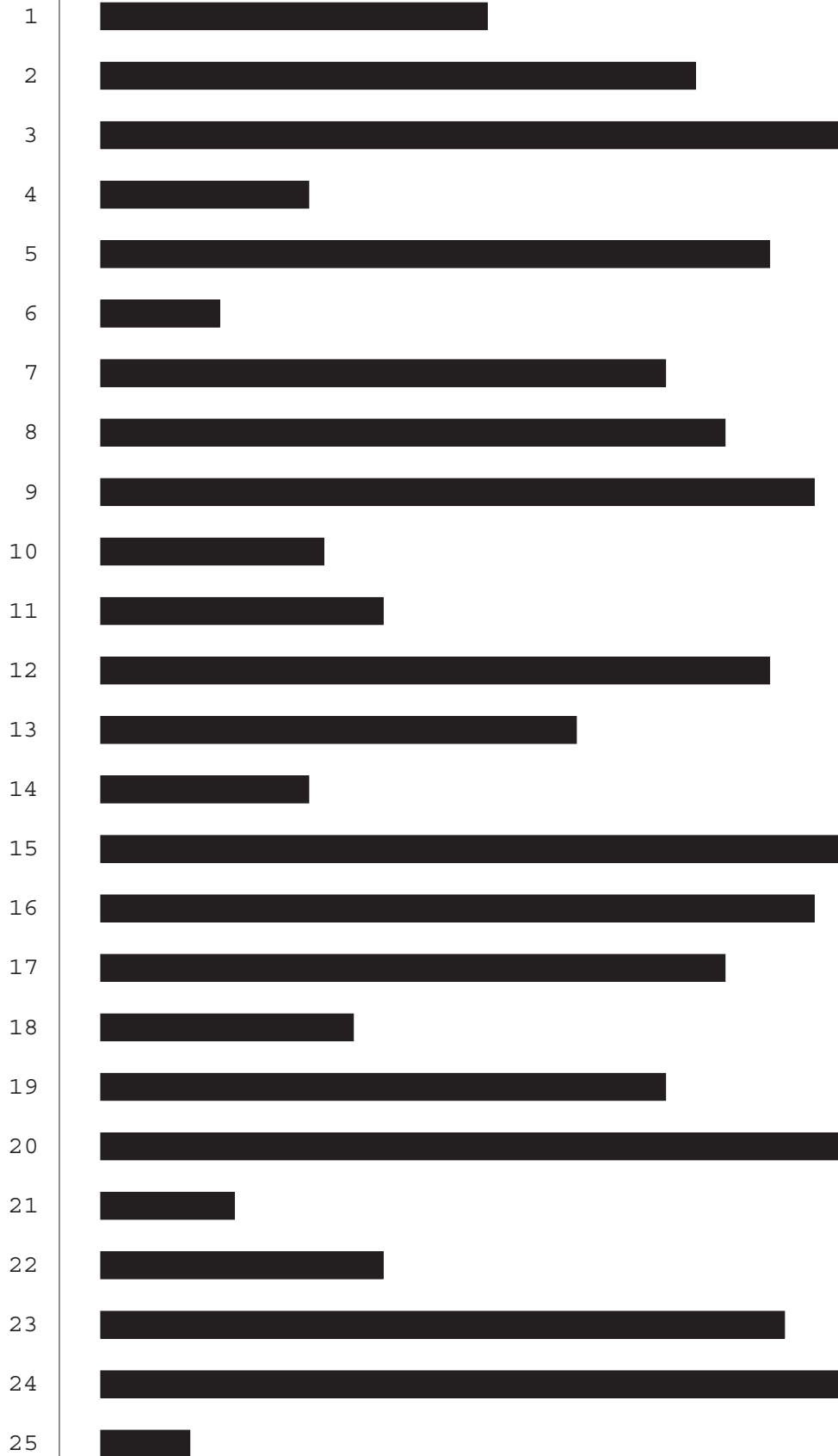










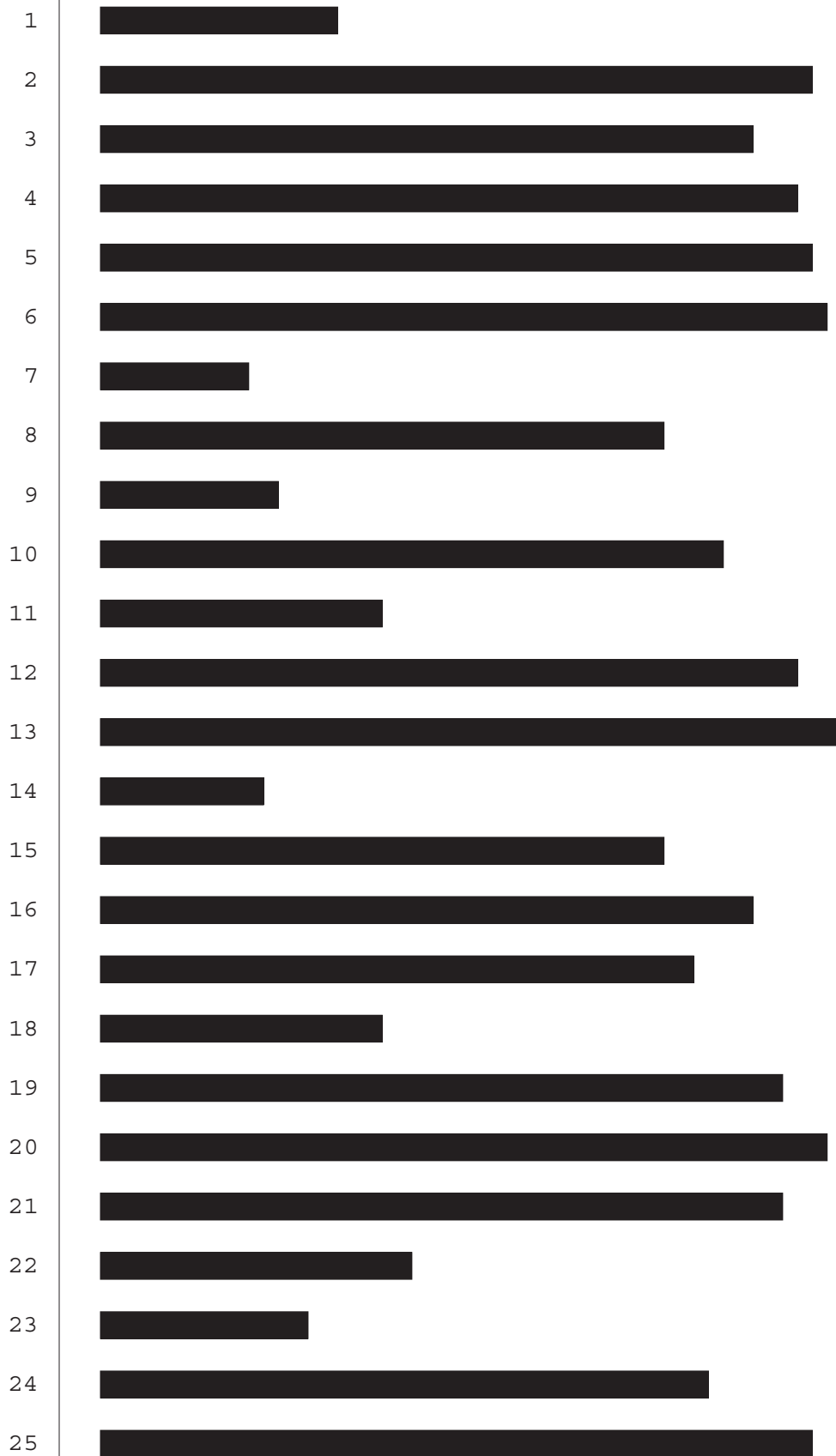


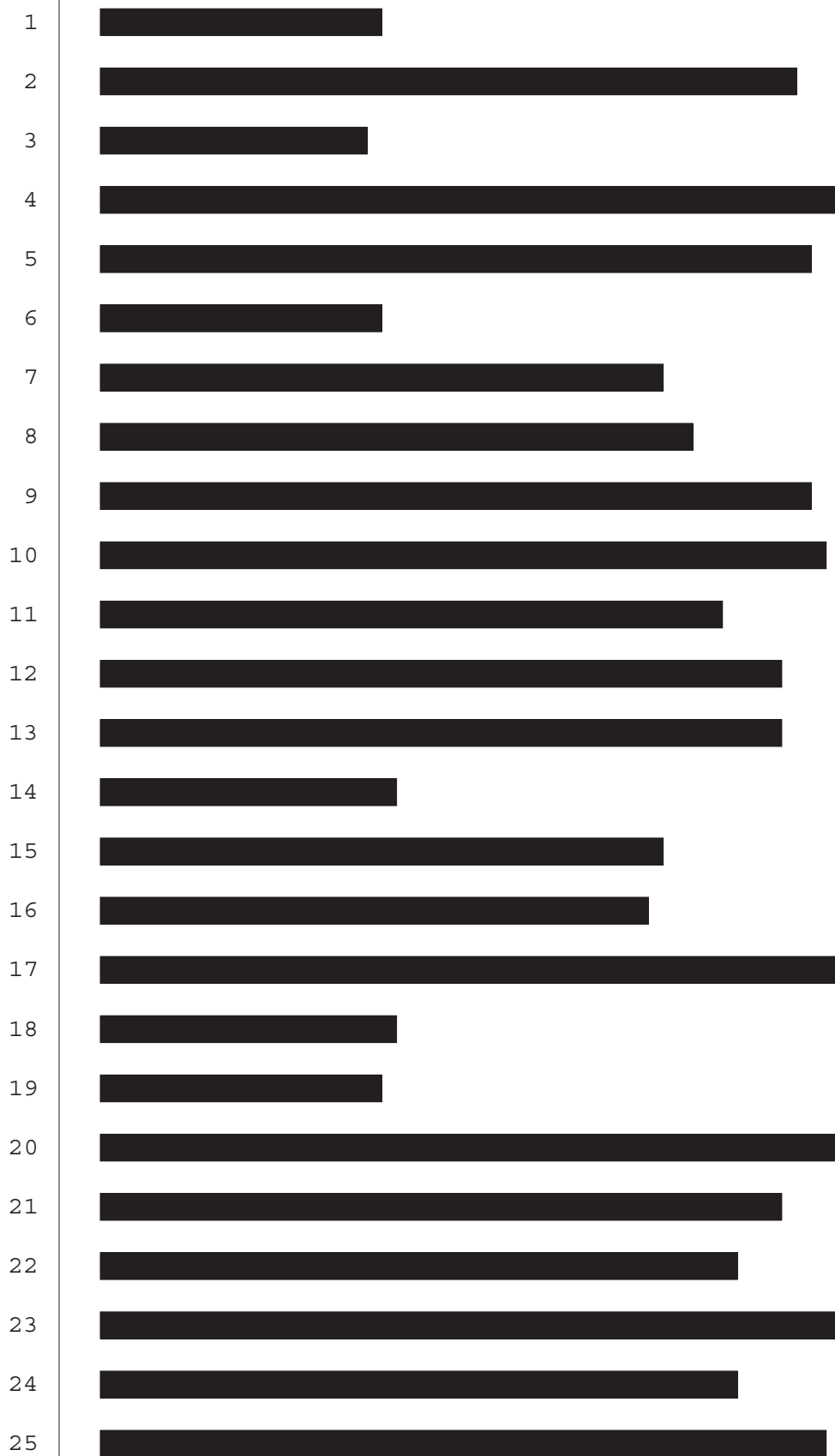


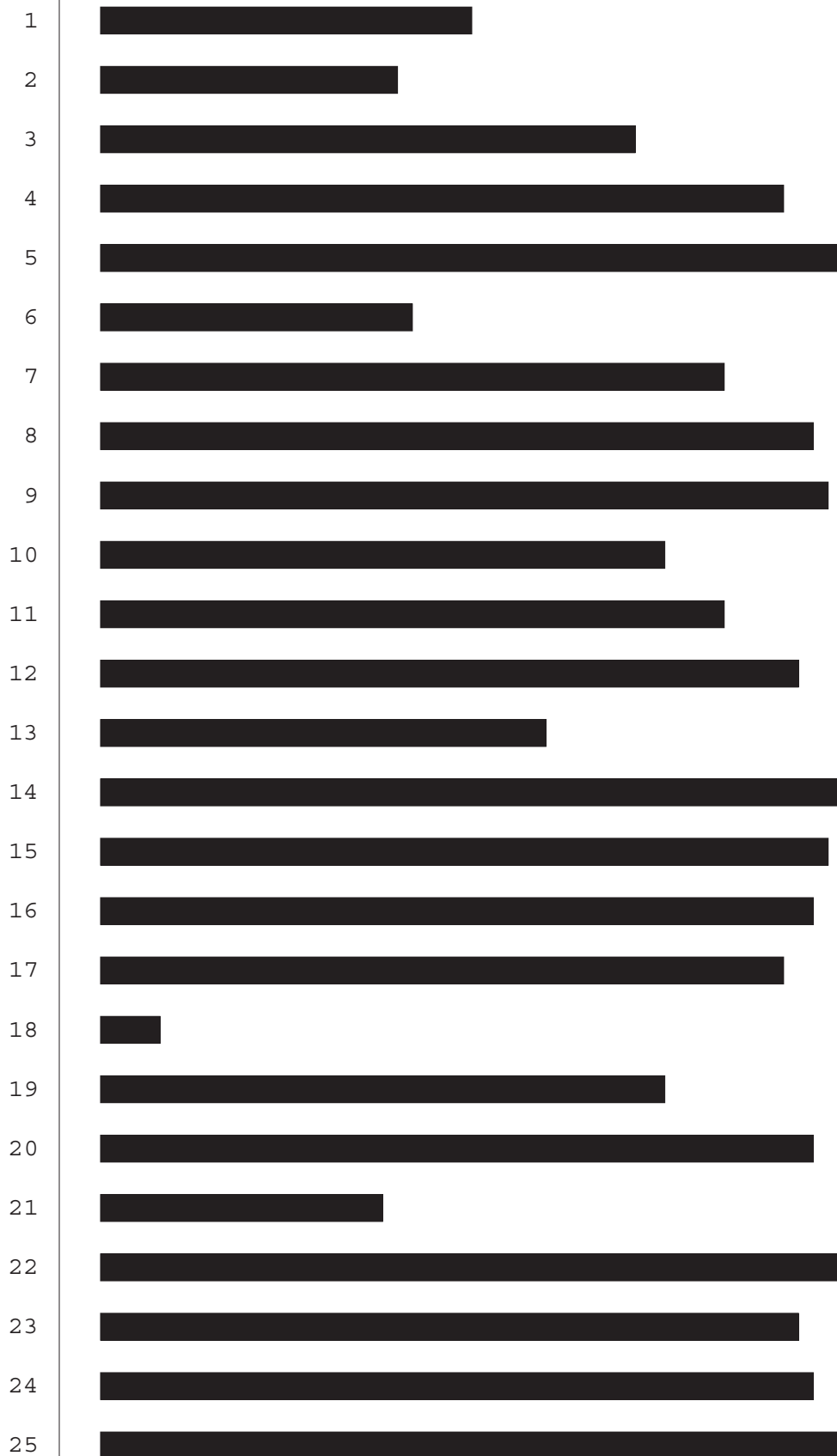


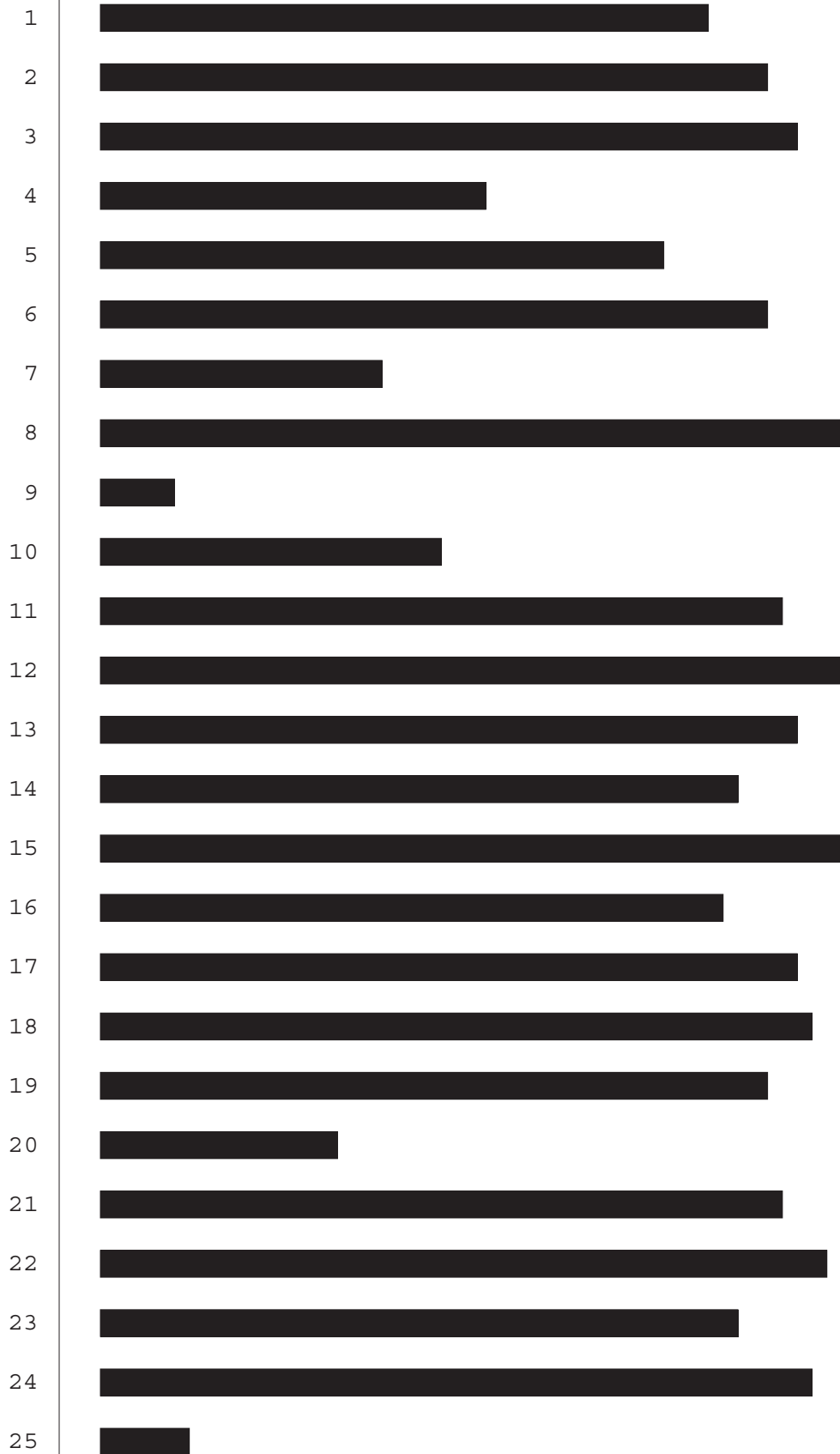
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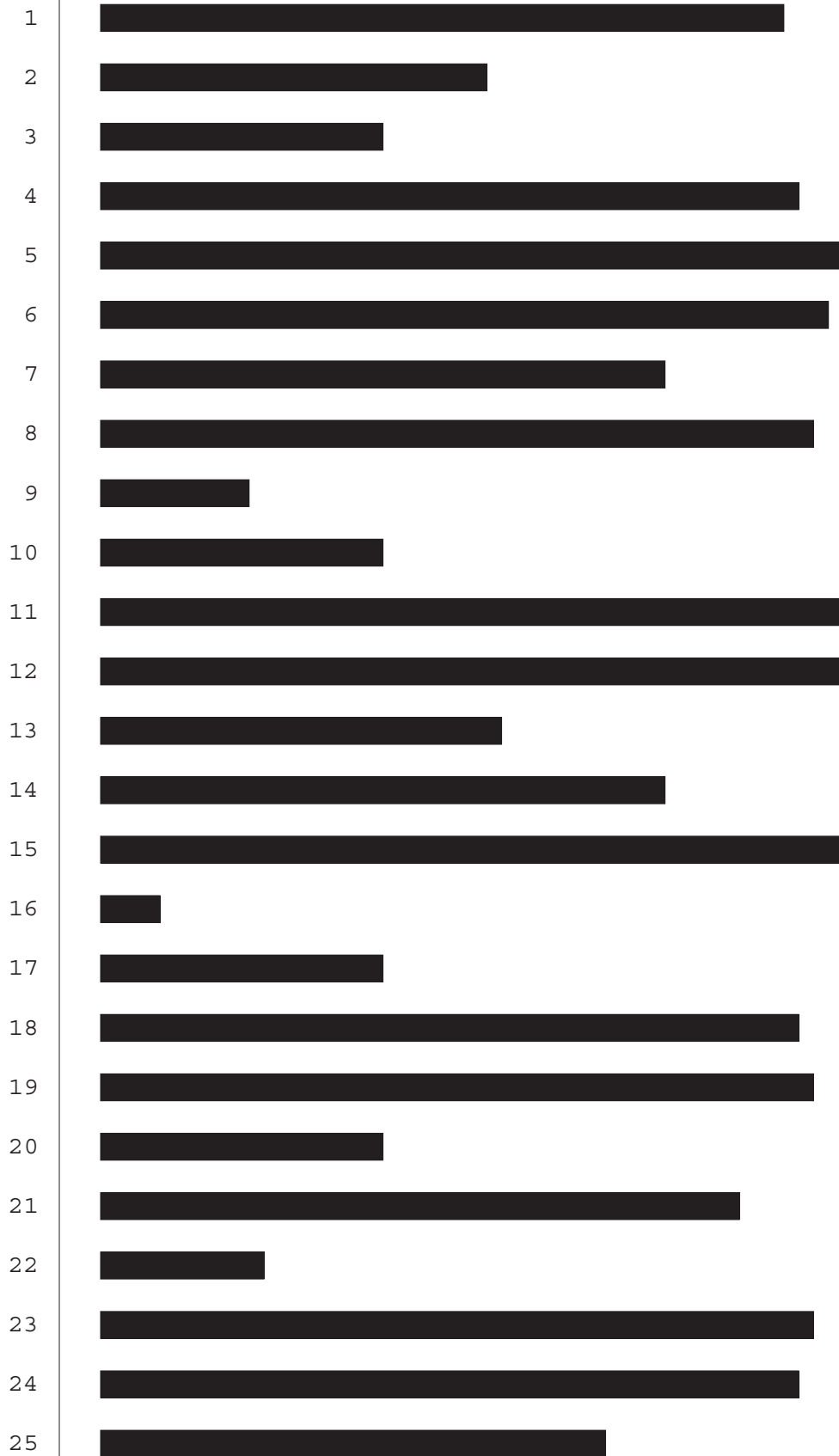






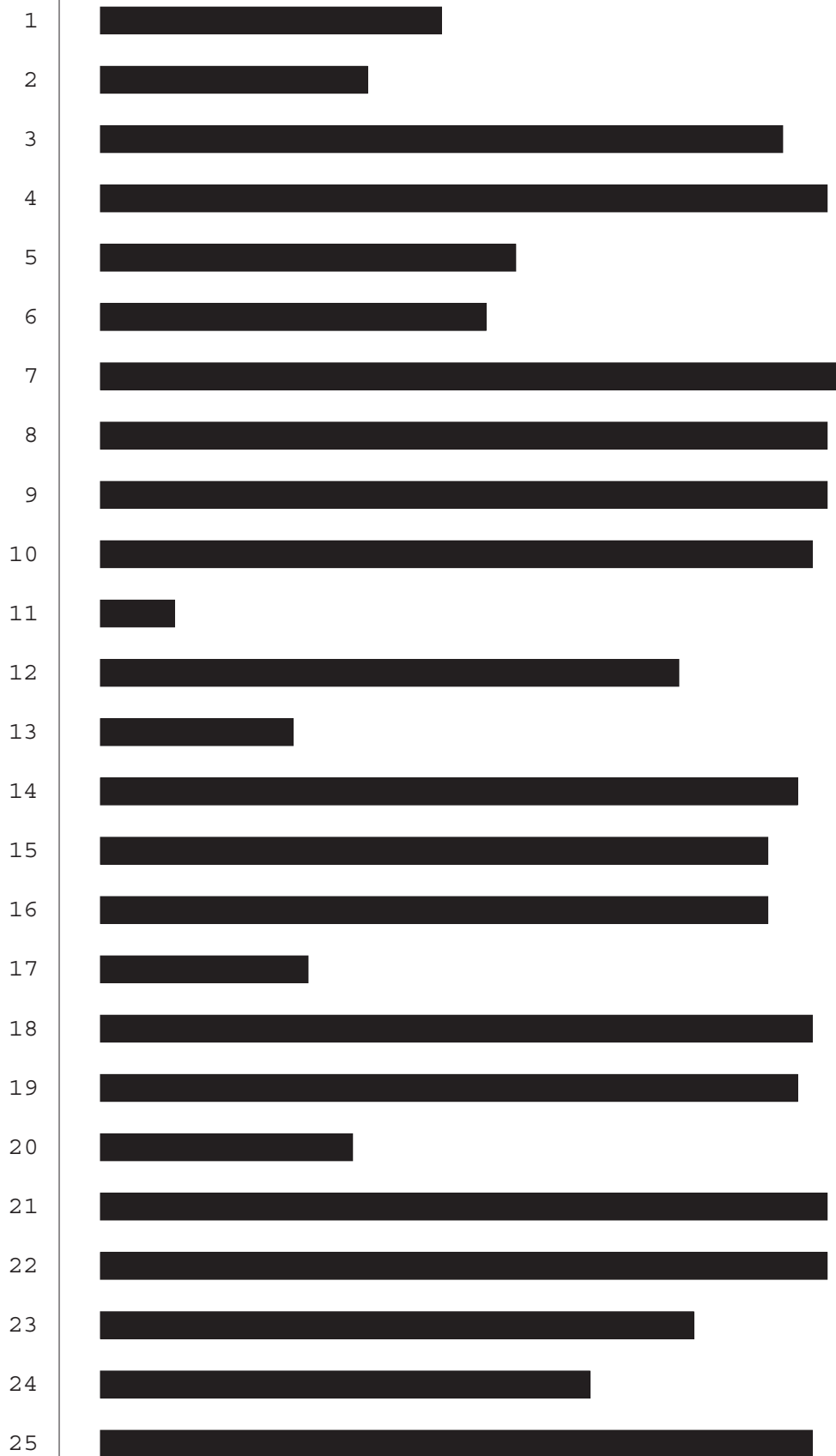
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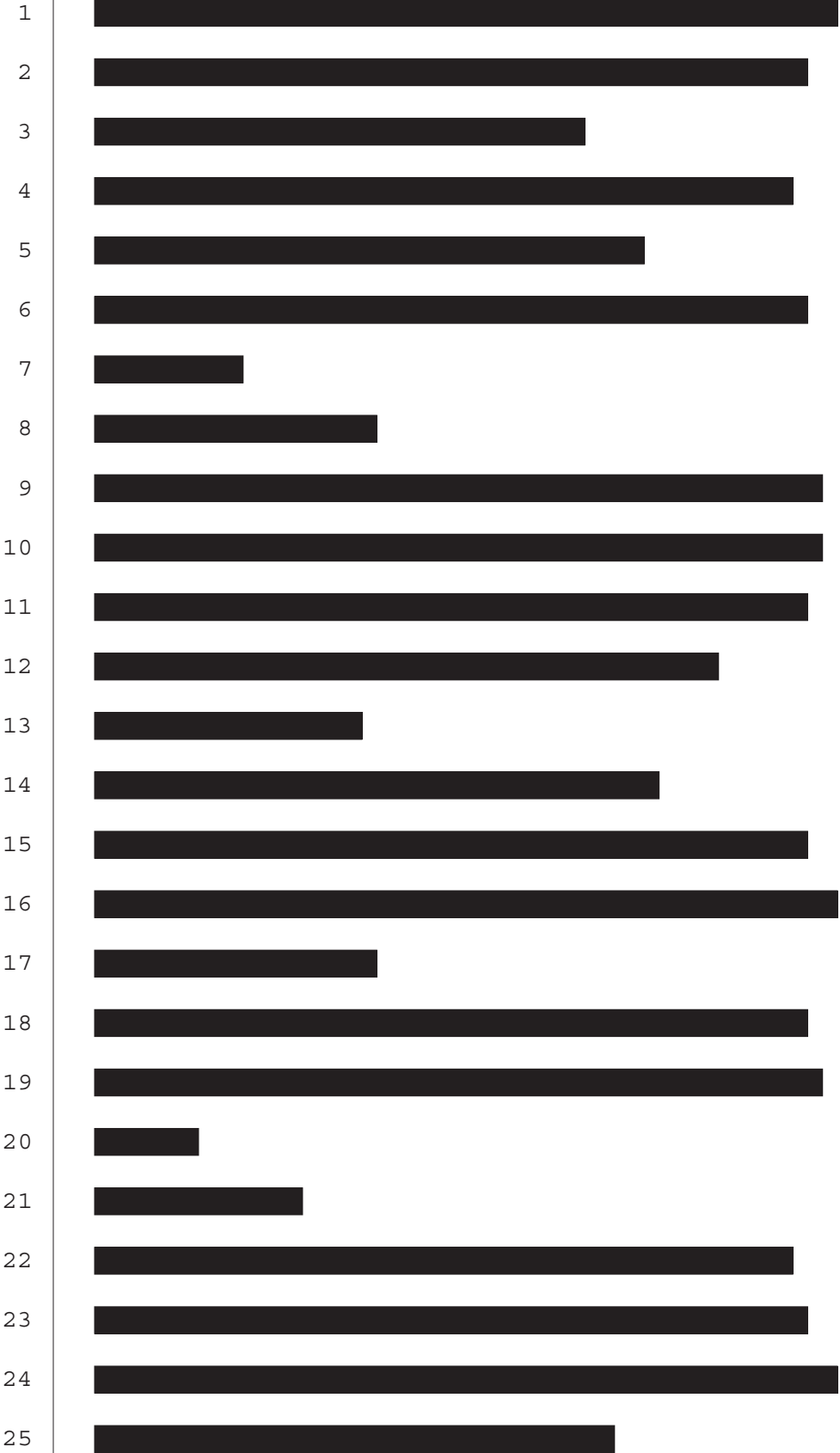


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11 (HBC-Chunderlik Exhibit 3 was marked.)

12 BY MR. ROTTINGHAUS:

13 Q. I'm going to show you what's been marked
14 Exhibit 3. I think it was already in front of
15 you. I'm going to be focusing on subparagraph
16 (b), which is the second full paragraph there.
17 Are you with me?

18 A. I am, yes.

19 Q. It's a little hard to read. I apologize
20 the text is kind of small. So we've also put it
21 on the screen if it's easier for you to read
22 there.

23 First of all, I want to read this subsection
24 and make sure I'm reading it correctly. Okay?
25 According to this subsection, it states, "The

1 registrant shall design and operate a system to
2 disclose to the registrant suspicious orders of
3 controlled substances."

4 Have I read it right so far?

5 A. Yes.

6 Q. It then says, "The registrant shall
7 inform the field division office in his area of
8 suspicious orders when discovered by the
9 registrant." Correct?

10 A. Yes.

11 Q. And then it goes on to describe
12 suspicious orders and how they can include orders
13 of unusual size, orders deviating substantially
14 from a normal pattern and orders of unusual
15 frequency; correct?

16 A. Yes.

17 Q. Do you remember if you read at any point
18 in time this provision of the Code of Federal
19 Regulations between 2012 and 2014 when you were
20 manager of compliance and, in part, oversaw
21 compliance for HBC warehouse?

22 A. I do recall that, yes.

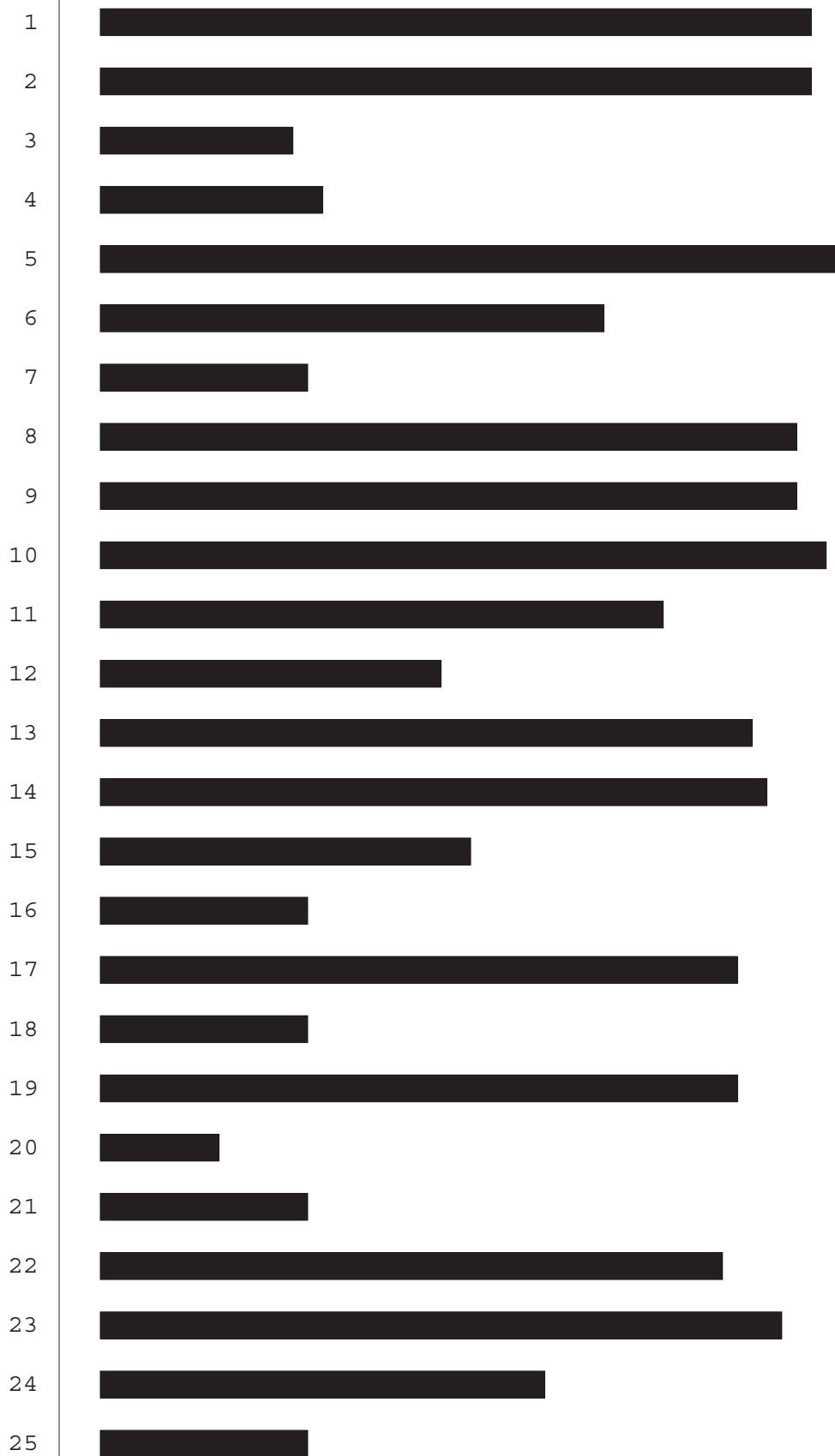
23 Q. In fact, when you told us that you went
24 and did some reading when you first took on the
25 position of manager of compliance, is this section

1 of the Code of Federal Regulations one of the
2 sections you went and read, to the best of your
3 memory?

4 A. I do recall that, yes.

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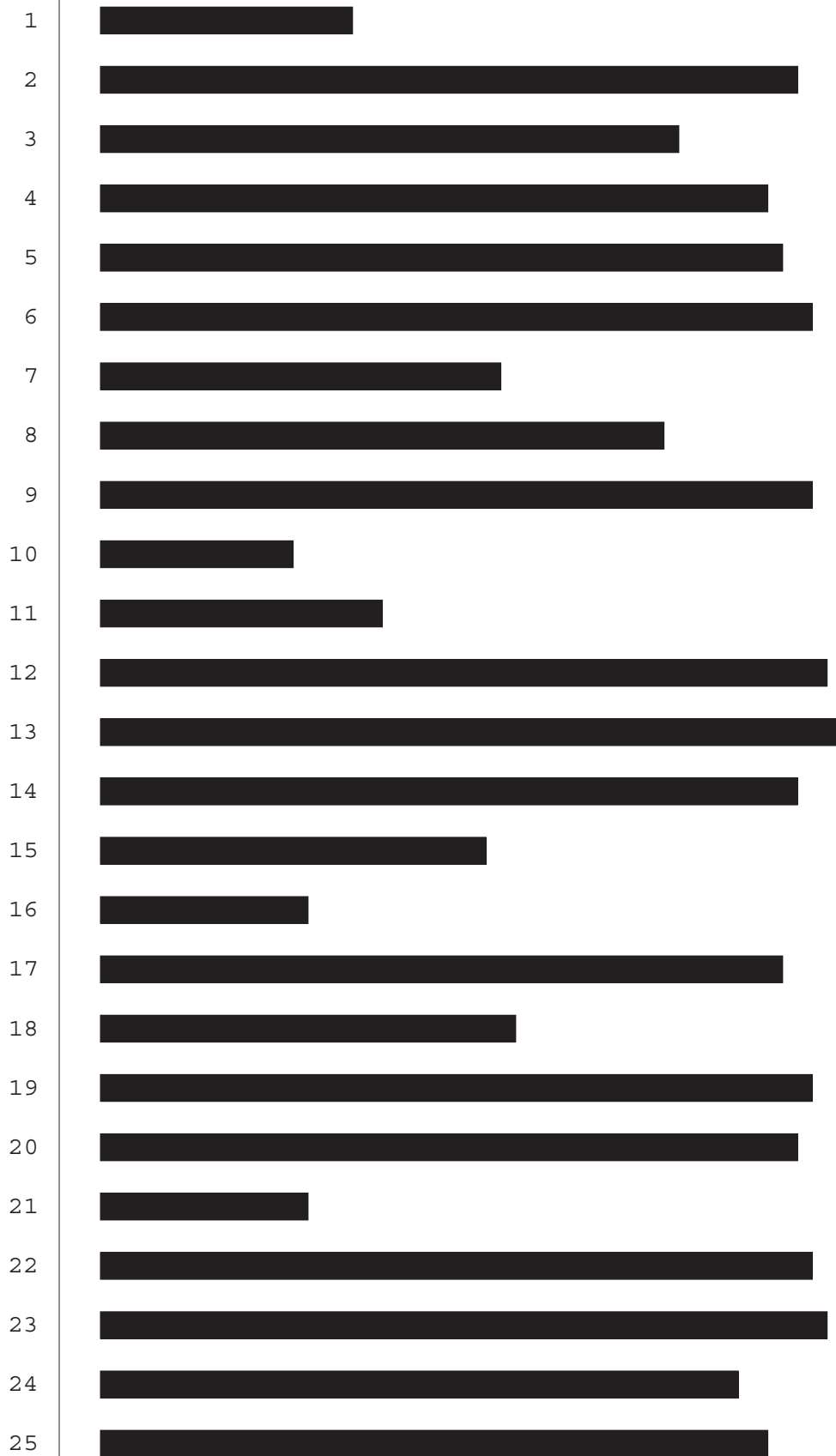
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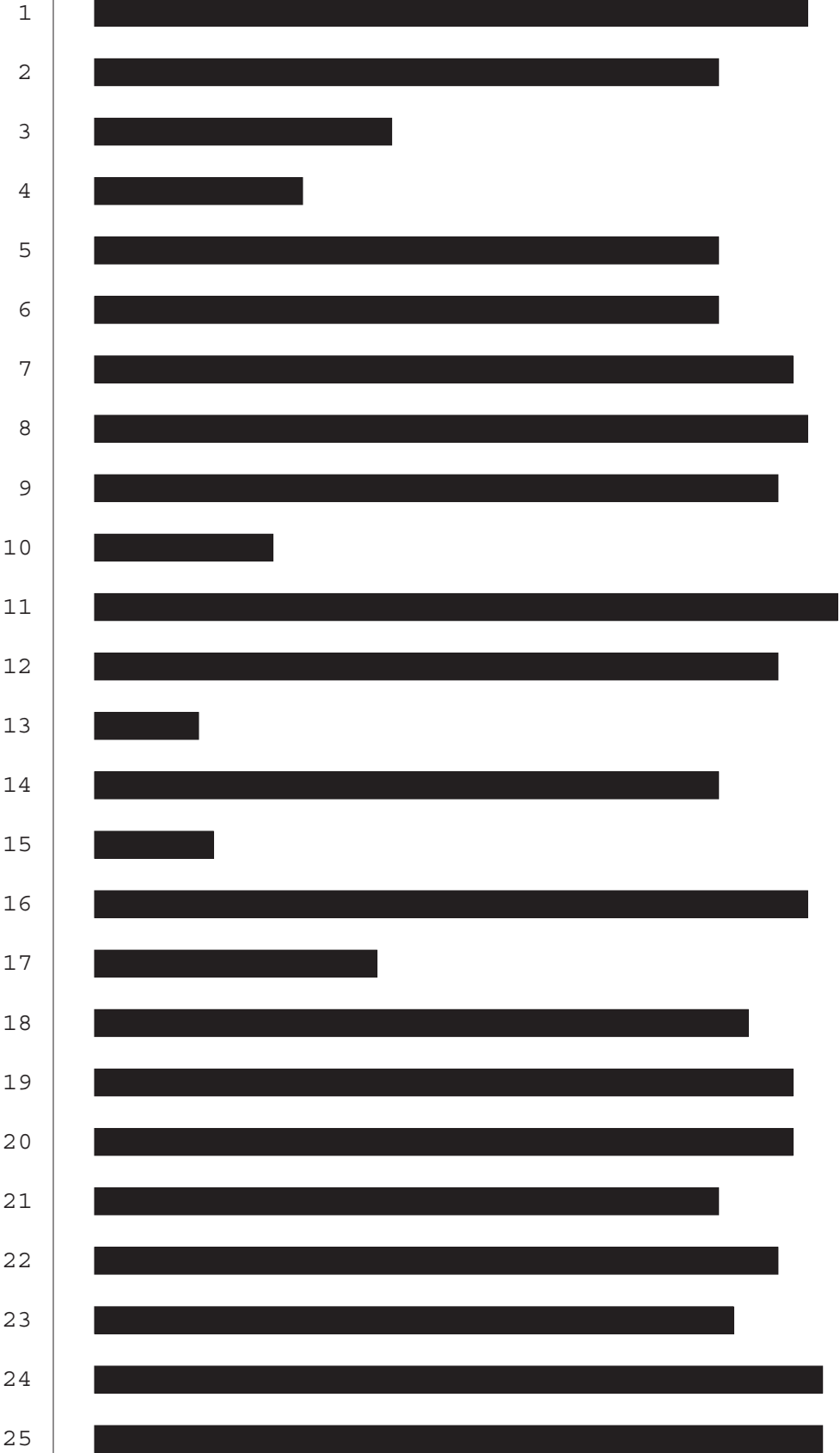
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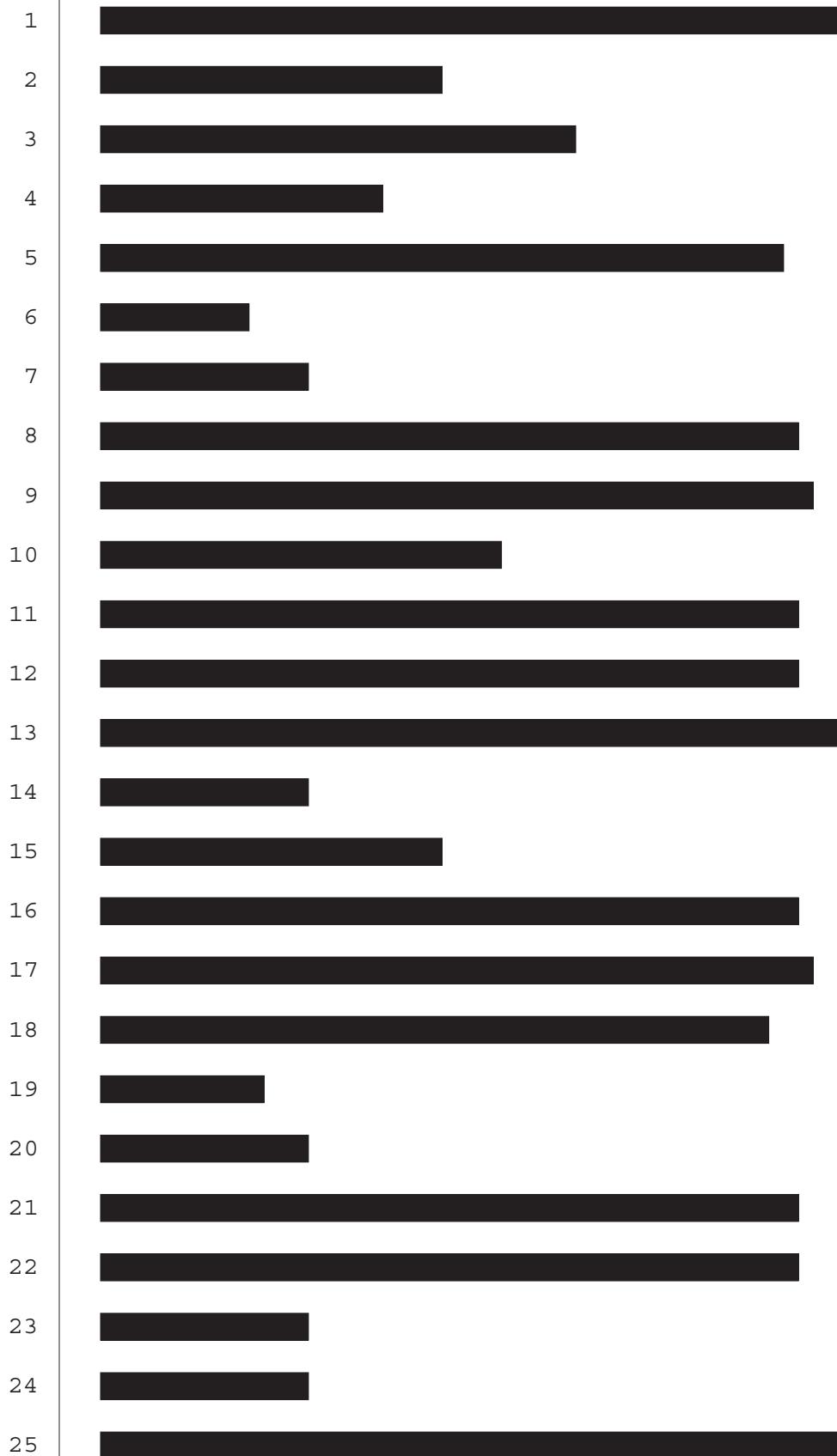
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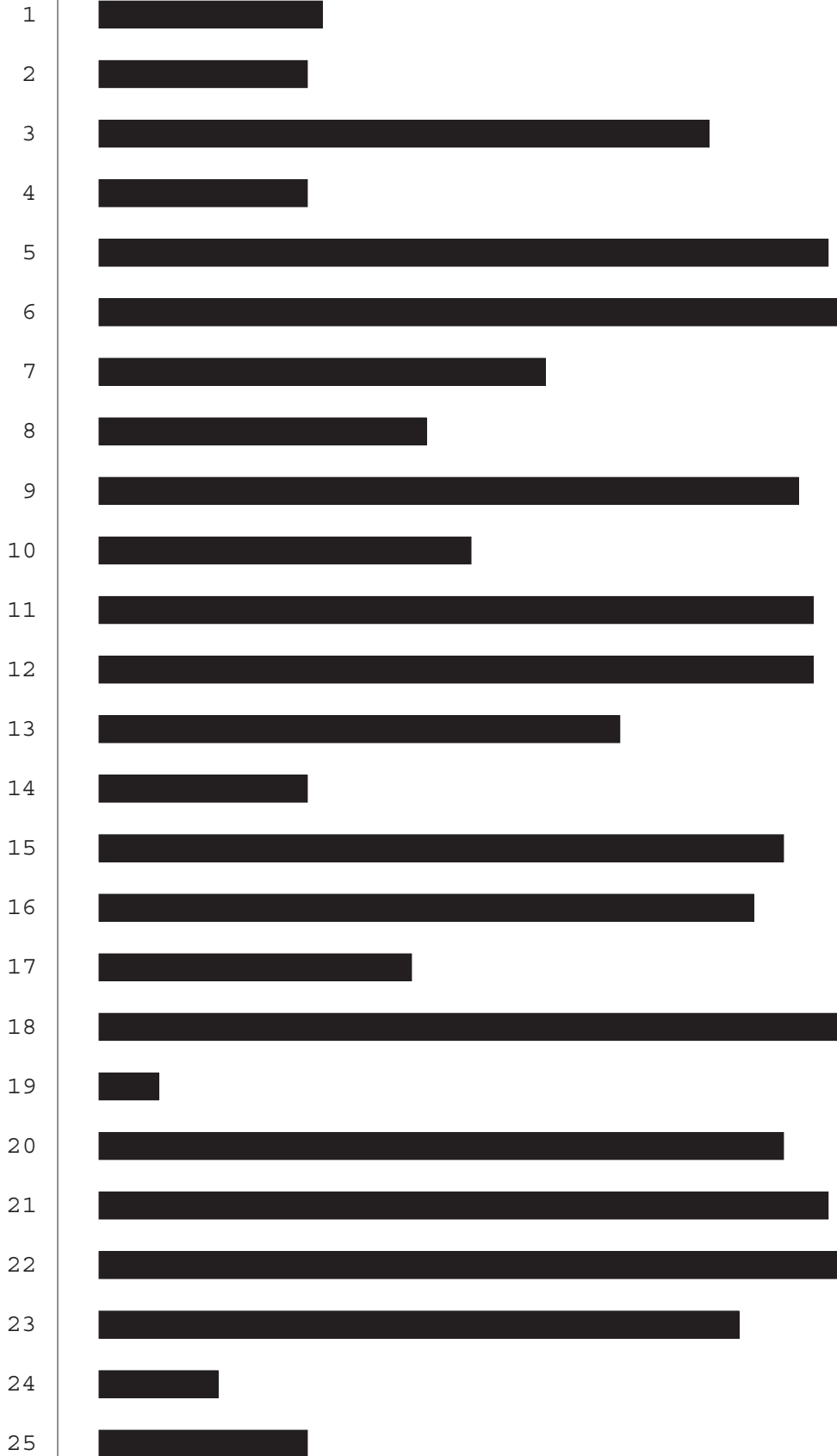




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20 (HBC-Chunderlik Exhibit 8 was marked.)

21 BY MR. ROTTINGHAUS:

22 Q. I'm going to show you now what we have
23 marked Exhibit 8. It's, again, one of those
24 documents I'm going to ask you just a couple of
25 things, but it's fairly large.

1 MR. ROTTINGHAUS: I think before we get
2 into this, we're going to go off the record real
3 quick because we have to change the videotape.

4 MR. KOBRIN: Take a break?

5 MR. ROTTINGHAUS: If you guys want to or
6 you want to keep moving for a little bit, I'll get
7 through this.

8 THE VIDEOGRAPHER: The time is
9 11:13 a.m. We're going off the video record.

10 (Recess from 11:13 a.m. to 11:38 a.m.)

11 THE VIDEOGRAPHER: The time is
12 11:38 a.m. We are now back on the video record.

13 BY MR. ROTTINGHAUS:

14 Q. Mr. Chunderlik, right before we took a
15 break, I think I may have referred to a document
16 we have marked as Exhibit No. 8. Do you have that
17 in front of you?

18 A. I do, yes.

19 Q. Let's look at the first page of that
20 document. This appears to be either an email or
21 some type of forward from Anthony Mollica to you
22 on May 1, 2012; is that correct?

23 A. That's correct.

24 Q. And it references the Anda Supply Chain
25 Symposium.

1 A. Yes.

2 Q. Do you recall whether you personally had
3 attended the Anda Supply Chain Symposium?

4 A. I did not attend this symposium.

5 Q. Now, in May of 2012, it's my
6 understanding that you had not yet become the
7 manager of compliance; is that correct?

8 A. To the best of my recollection, that is
9 correct, yes.

10 Q. If we could now, let's go to -- there
11 are lengthy numbers in the bottom right-hand
12 corner of each of these documents. I may have
13 referred your attorney to the page I'm going to
14 reference. There's also a number five at the
15 bottom right-hand corner. Do you see that?

16 A. Yes.

17 MR. ROTTINGHAUS: The Bates numbers are
18 4413.

19 BY MR. ROTTINGHAUS:

20 Q. Before I actually ask you any questions
21 about this, do you know whether you ever looked at
22 this document back in May of 2012?

23 A. I have a recollection that I may have
24 reviewed it, yes.

25 Q. So at least as of 2012 when this was

1 forwarded to you, you believe you did see some of
2 this document, if not all of it?

3 A. Yes.

4 Q. Let's look at what I had just referred
5 to as this page 5, which appears to be a
6 PowerPoint slide. Does it appear to you as well?

7 A. It does.

8 Q. And I understand this is not a document
9 that was prepared by Giant Eagle or HBC, but this
10 is a document that Mr. Mollica brought back with
11 him from the supply chain symposium; correct?

12 A. I believe so, yes.

13 MR. KOBRIN: Object to form.

14 BY MR. ROTTINGHAUS:

15 Q. That's your understanding?

16 A. That's my understanding.

17 Q. And that's your memory from 2012?

18 A. Yes.

19 Q. Now, at least on this slide it appears
20 to be, again, referencing some of the duties of a
21 distributor of controlled substances; is that
22 right?

23 A. Yes.

24 Q. And it specifically is referencing
25 Section 1301.74(a) and (b) of the Code of Federal

1 Regulations.

2 A. Yes.

3 Q. Let's look for a second at subsection
4 (b) of this document. Once again, we're going to
5 see language that you have seen before; correct?

6 A. Yes.

7 Q. And this is, again, restating what the
8 Code of Federal Regulations says, and that is that
9 the registrant shall design and operate a system
10 to disclose to the registrant suspicious orders of
11 controlled substances; correct?

12 A. Correct.

13 Q. And then it goes on.

14 If you'll go to the next page of this, in
15 bold face it says SOM Measurements; correct?

16 A. Yes.

17 Q. Do you believe SO stands for suspicious
18 orders?

19 A. I believe so, yes.

20 Q. Now, as you look at the different topics
21 on this slide, the first thing we see is
22 controlled versus noncontrolled. Then we see cash
23 payment versus third-party payment; correct?

24 A. Yes.

25 Q. Is it your understanding that this slide

1 is conveying a belief, for lack of a better term,
2 that a potential red flag might be when
3 individuals are paying for controlled substances
4 with cash?

5 MR. KOBRIN: Object to form.

6 BY MR. ROTTINGHAUS:

7 Q. Rather than through insurance.

8 MR. KOBRIN: Object to form.

9 THE WITNESS: I'm not sure what the
10 intent of the person who put this presentation
11 together -- if that was the intent or not.

12 BY MR. ROTTINGHAUS:

13 Q. Does that make sense to you, that that
14 could be a red flag when people are paying with
15 cash versus third-party payments?

16 A. It could be.

17 Q. That's something you were aware of back
18 in 2012; correct?

19 A. Yes.

20 Q. A potential red flag?

21 A. Correct.

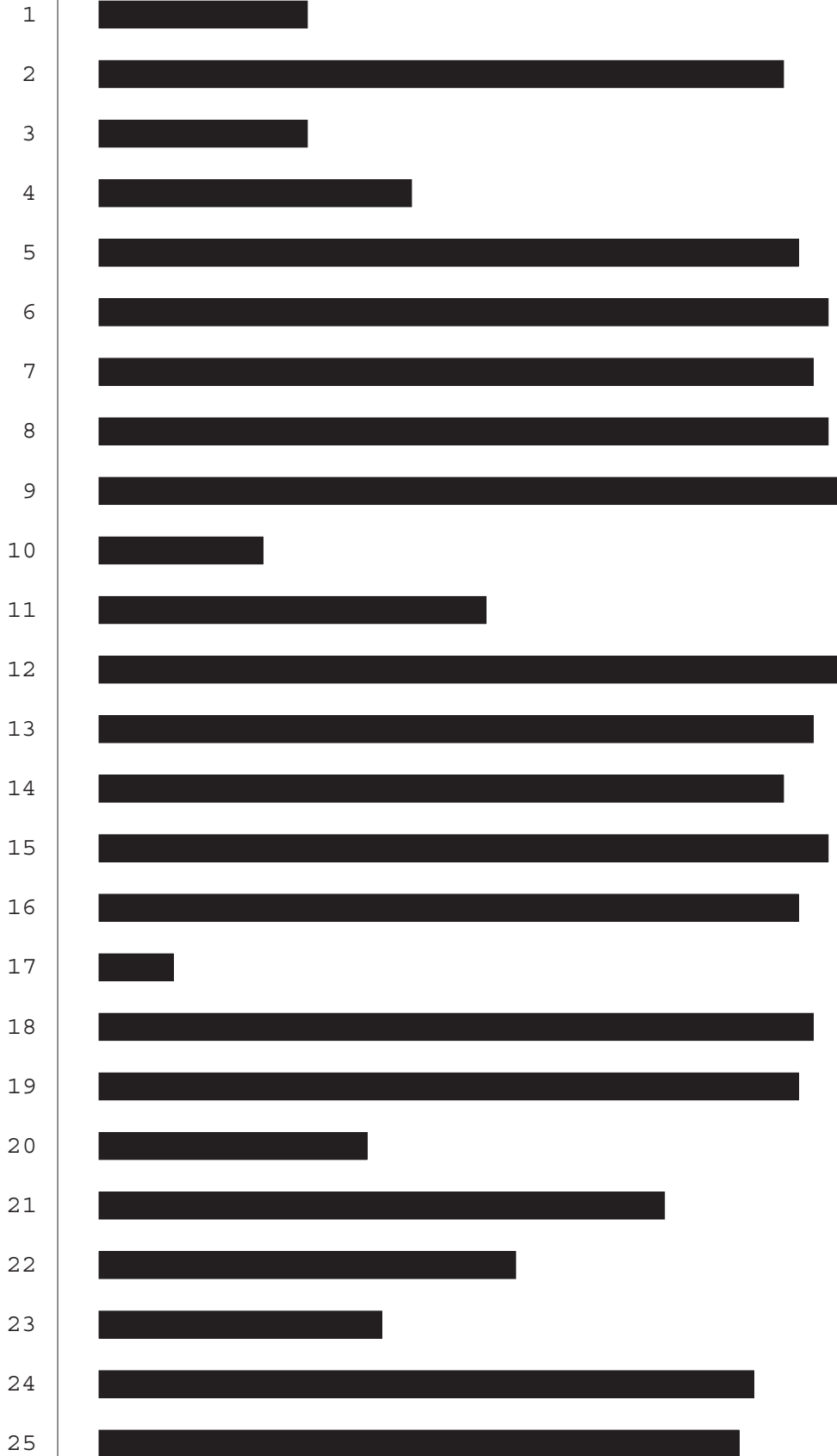
22 Q. And then it goes on to list other
23 measurements as well; does it not?

24 A. It does.

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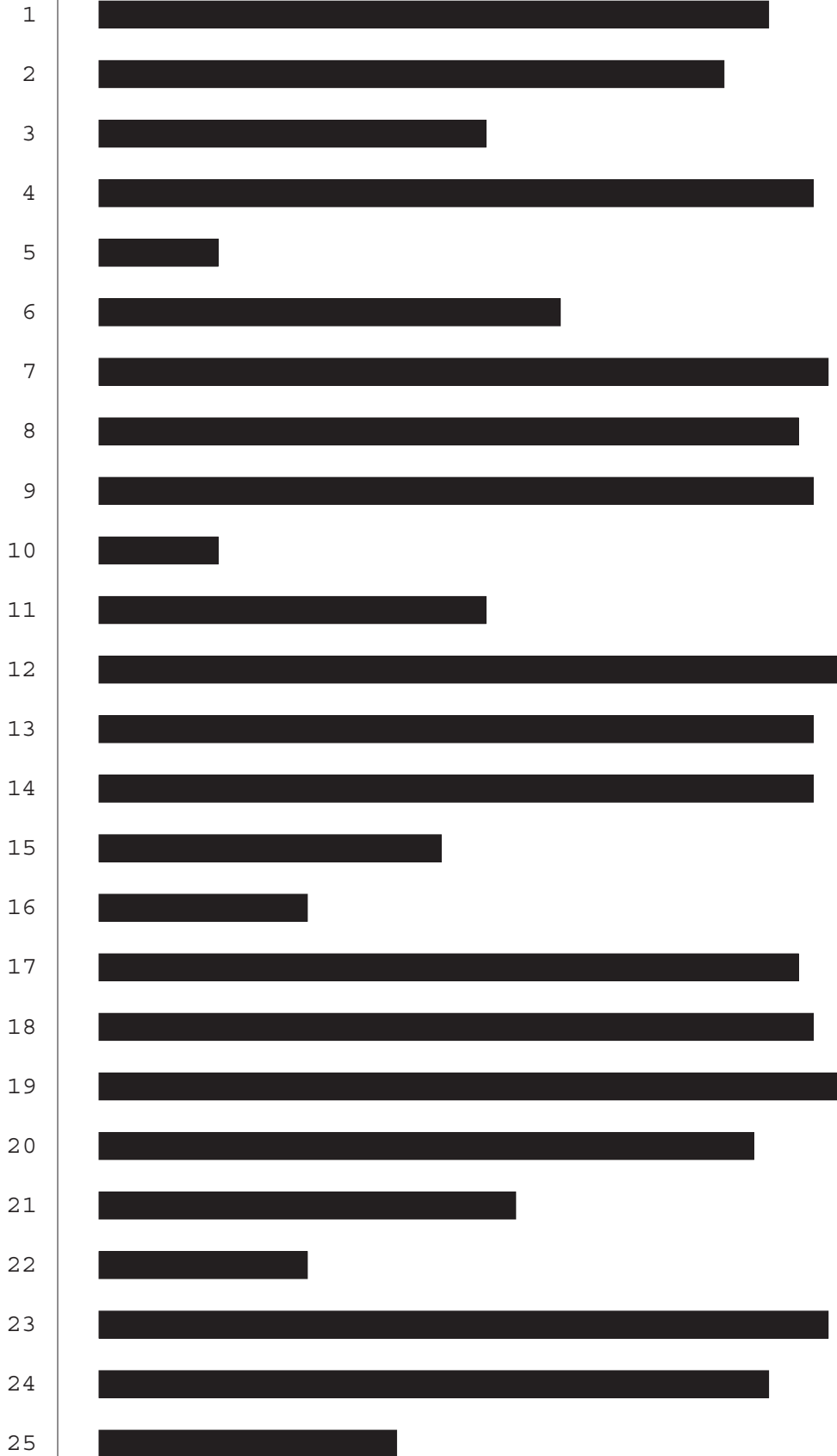
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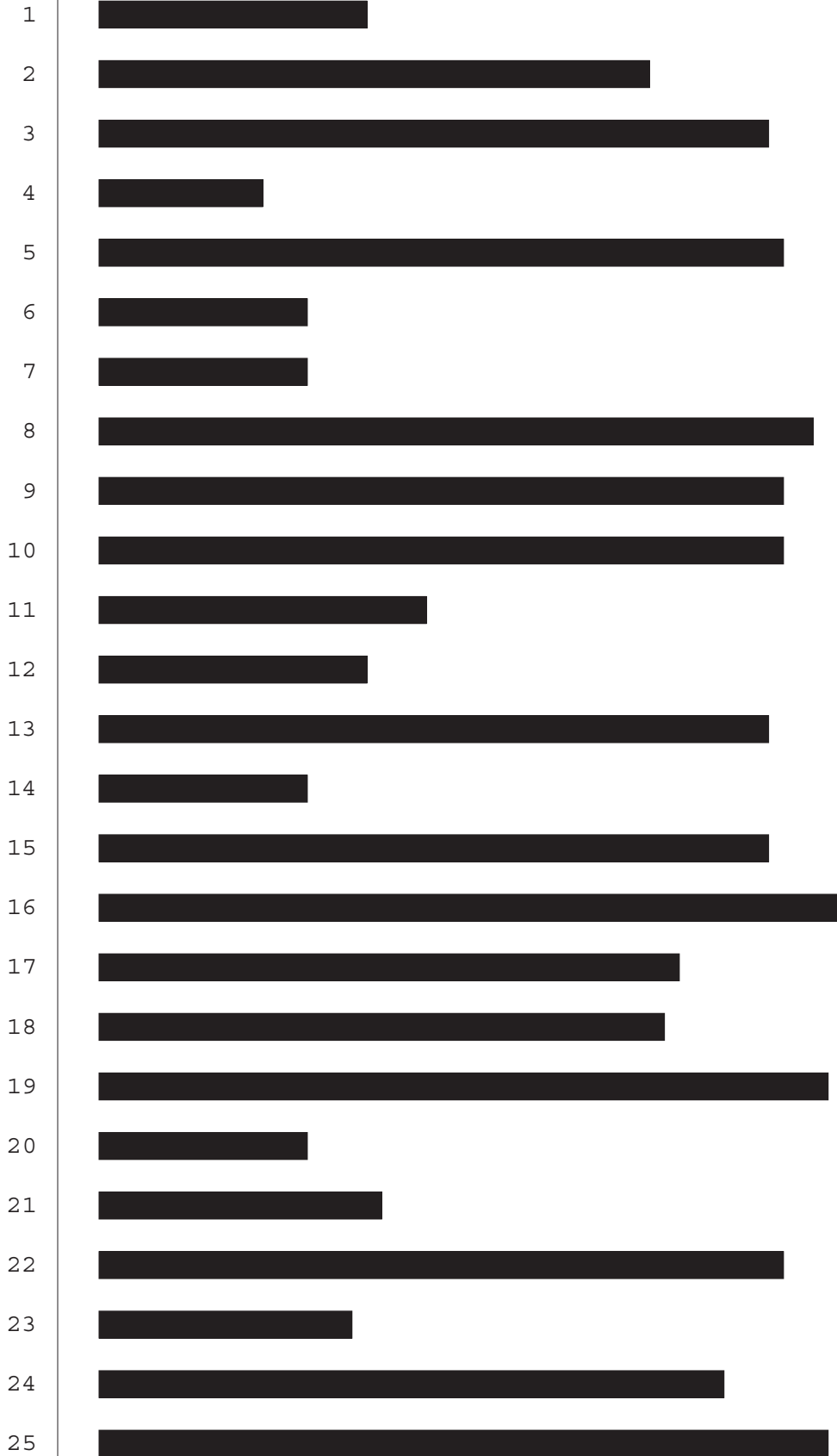
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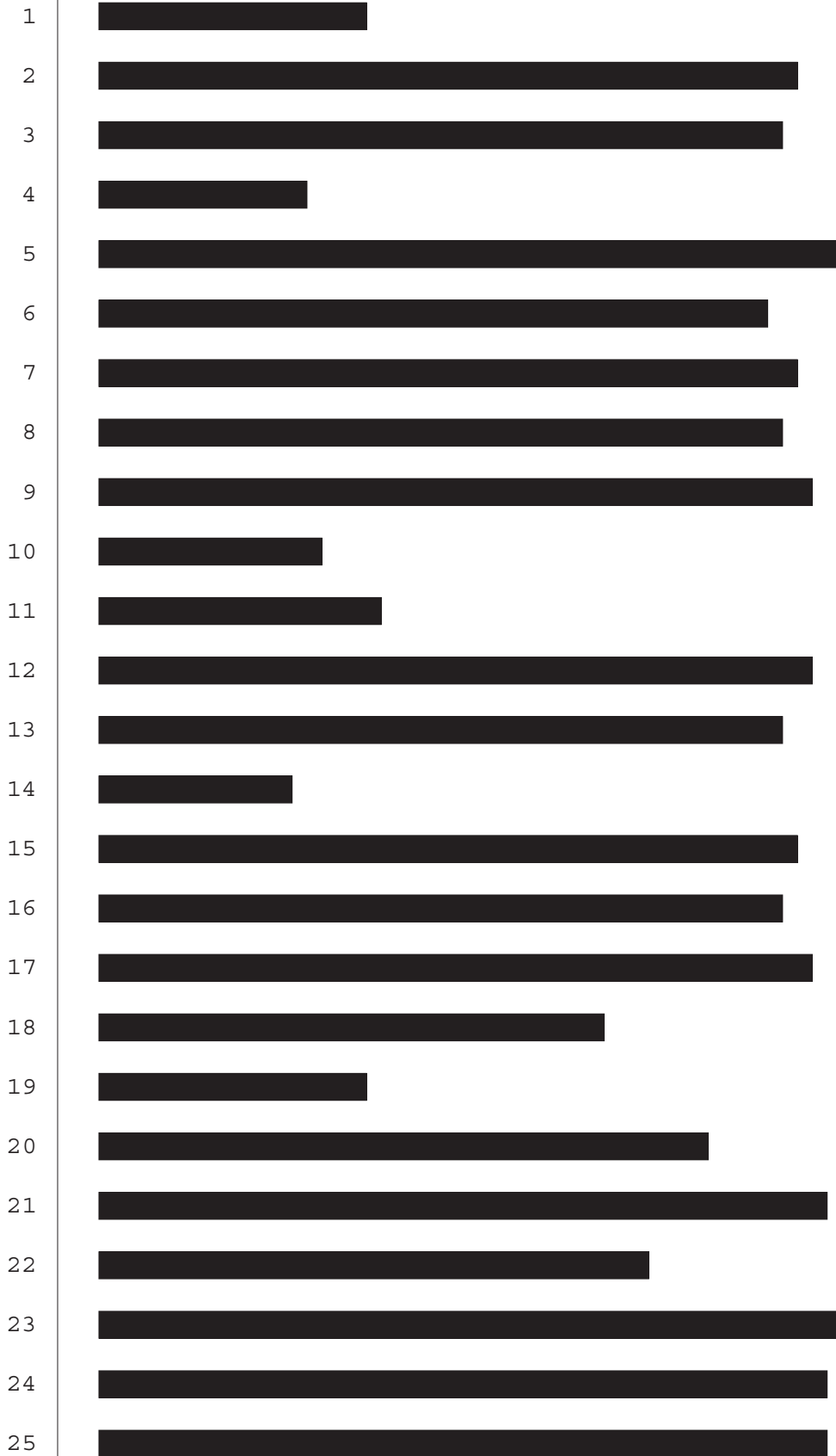








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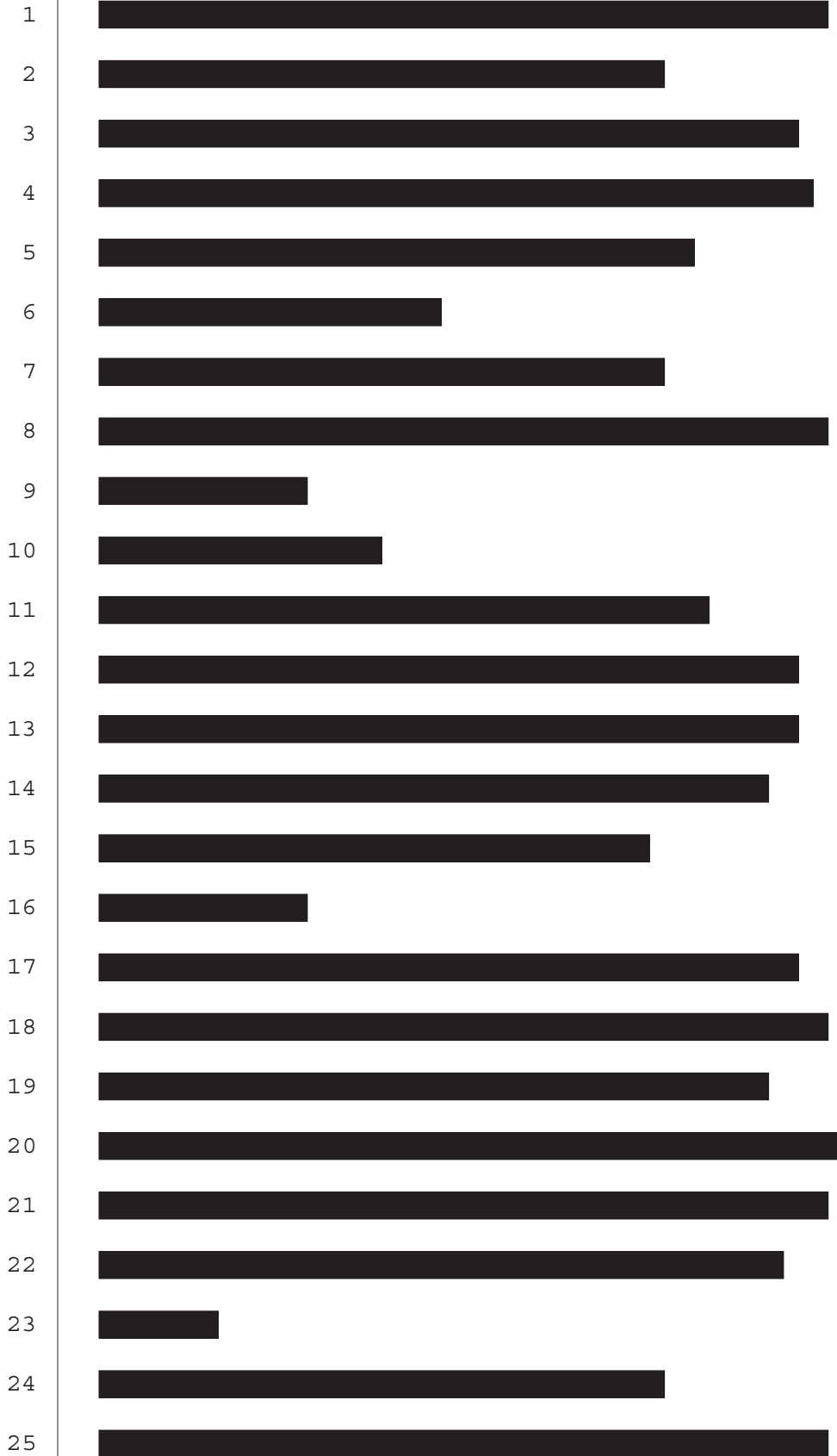
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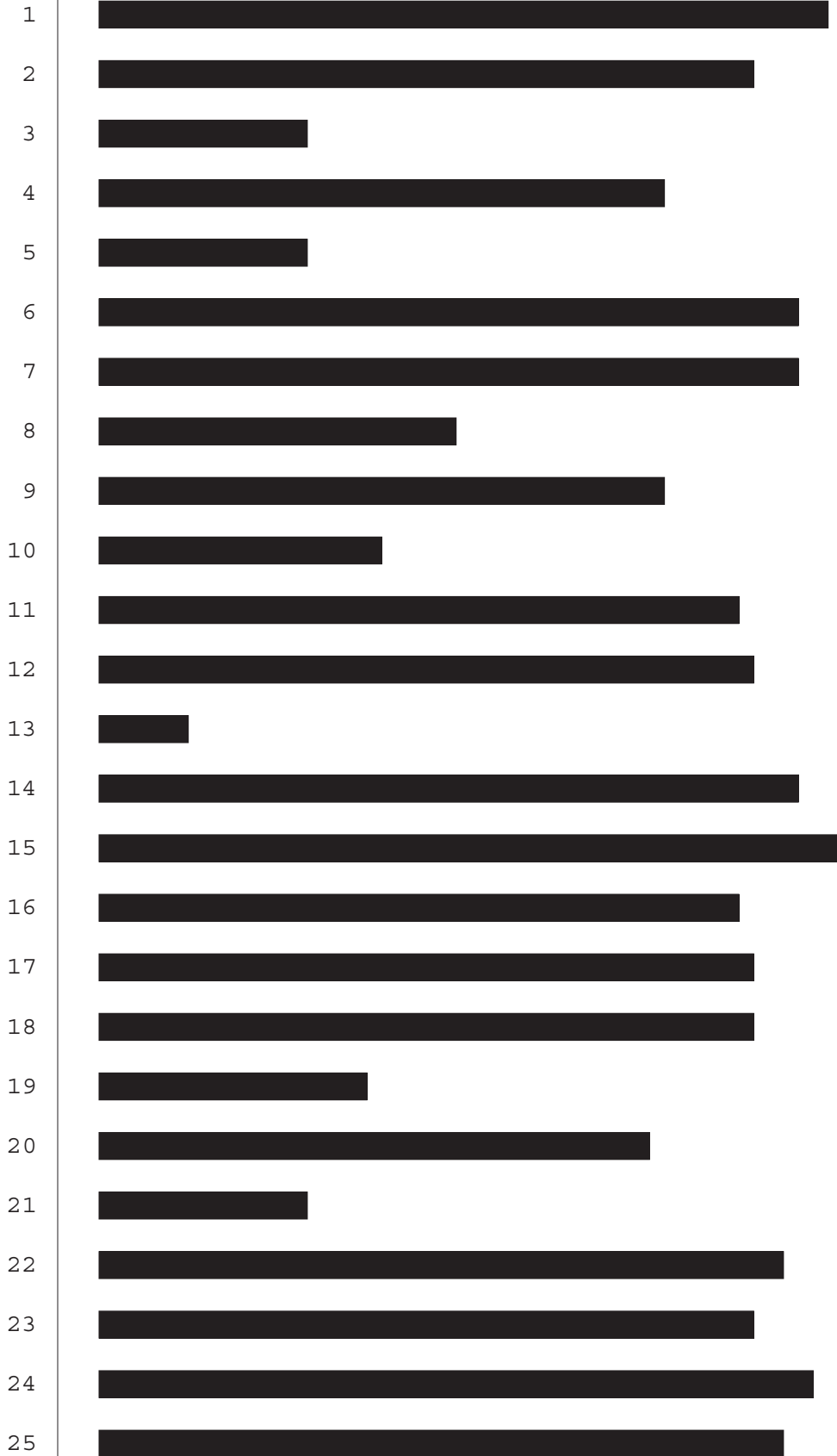


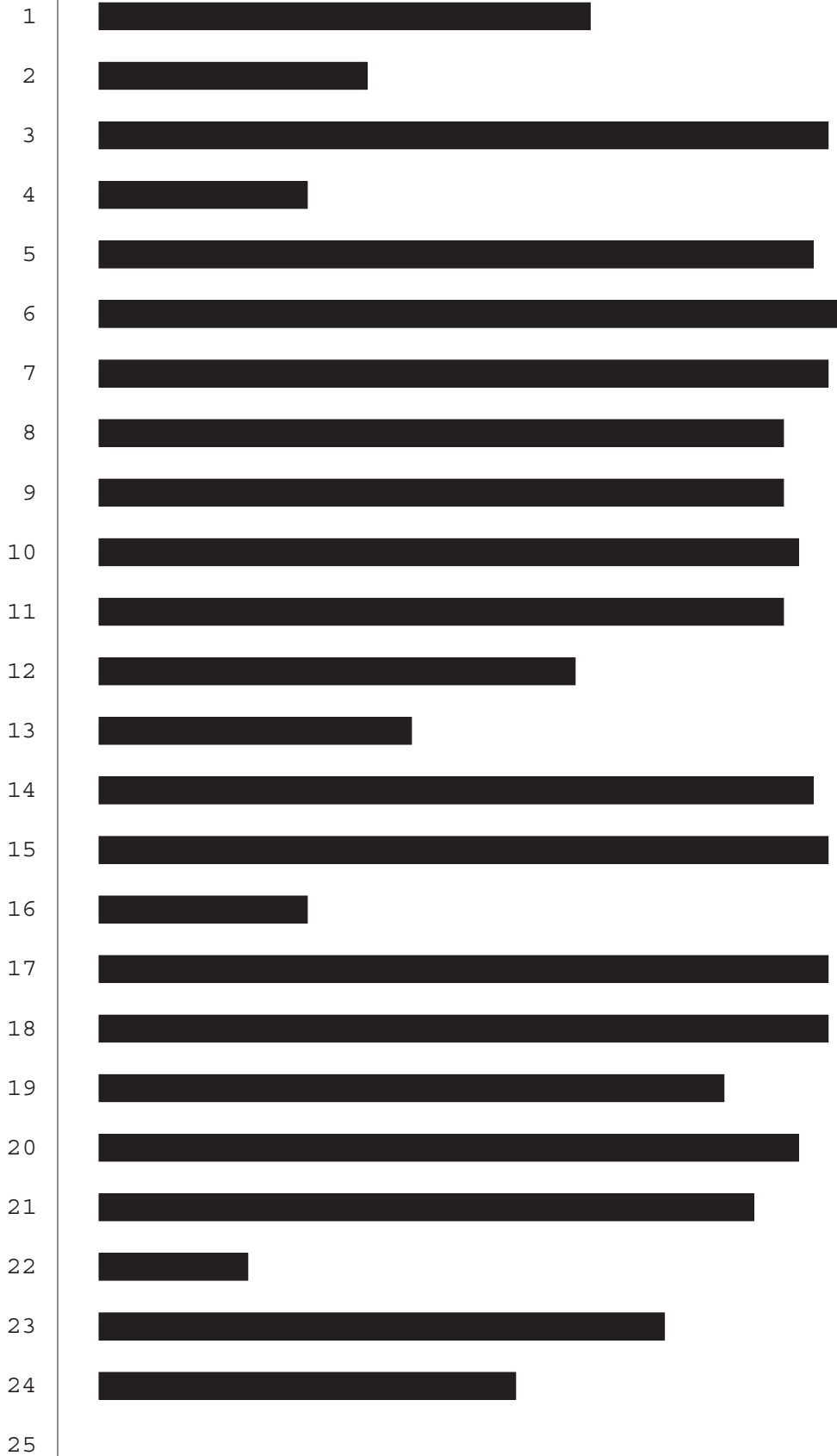


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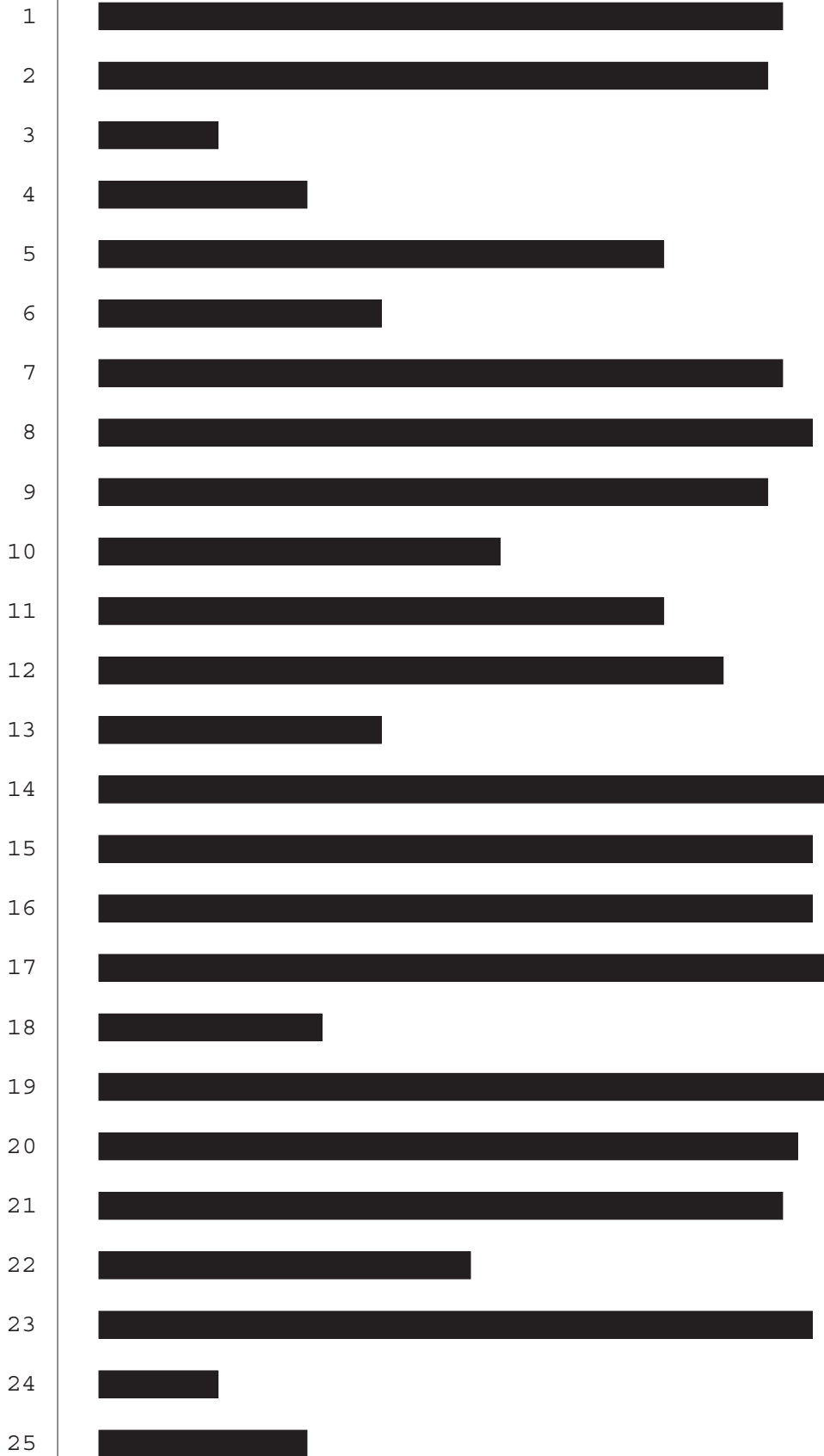
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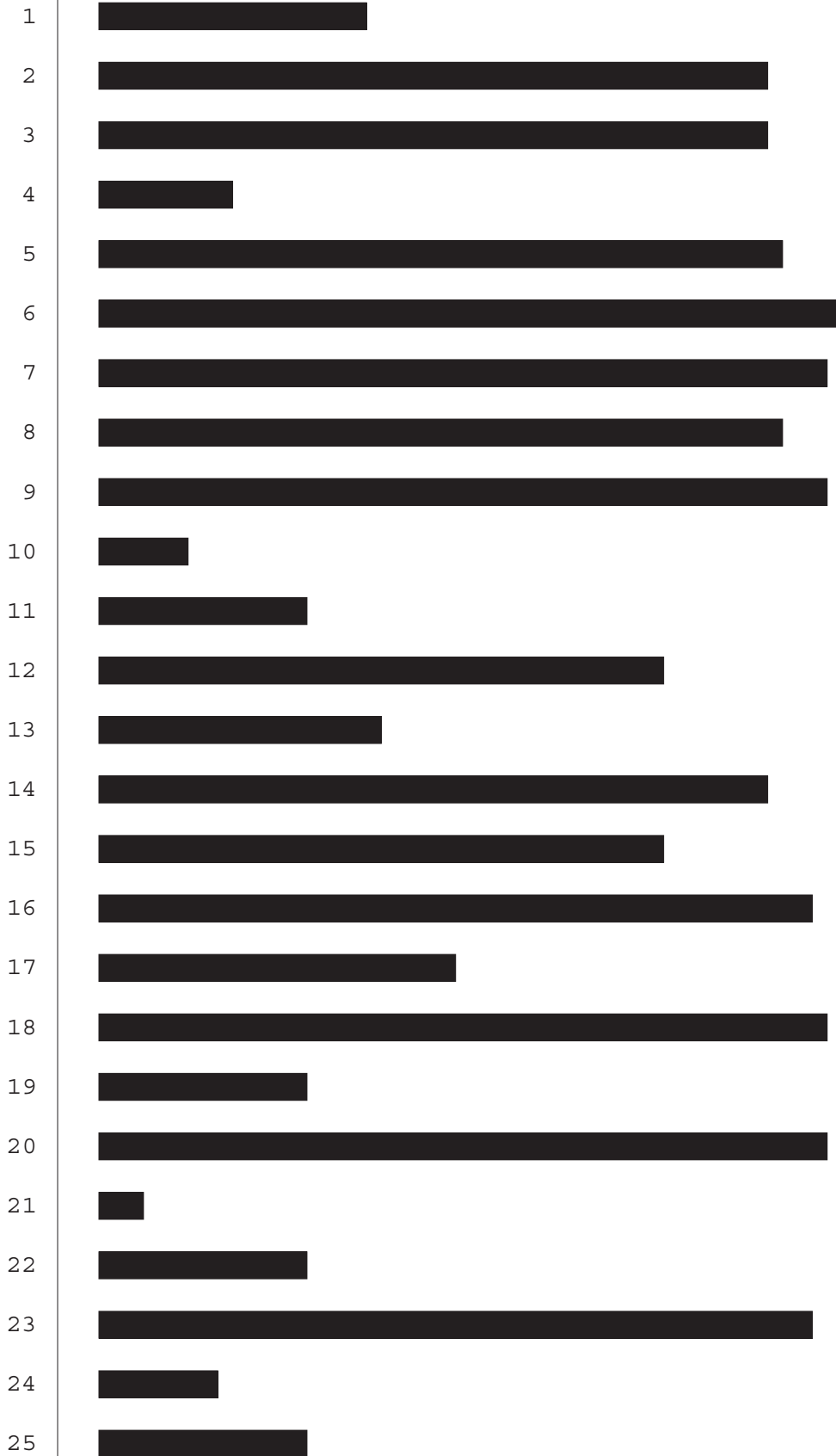


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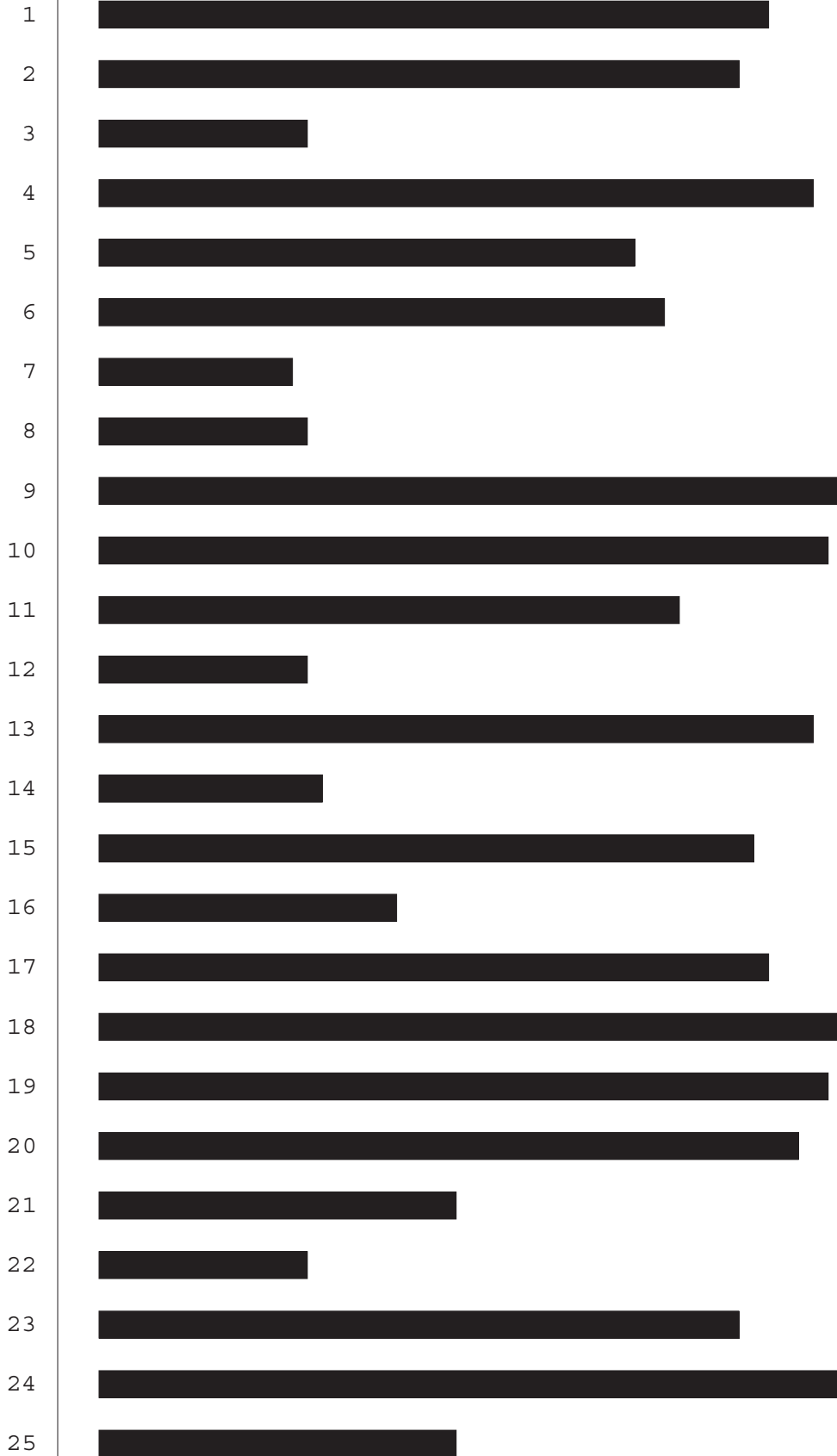










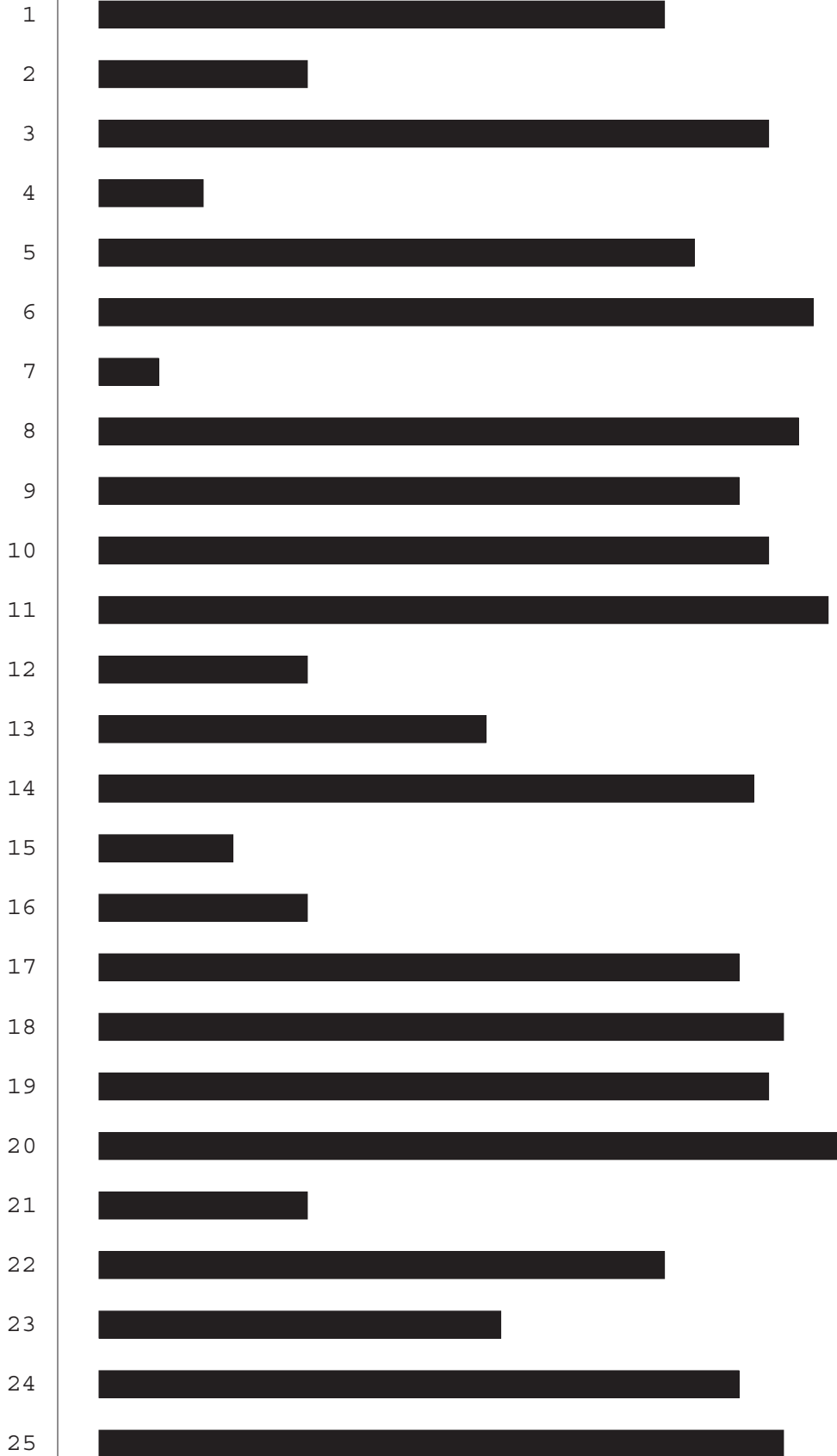




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1 A. A copy -- I don't know if was a
2 formalized policy as on Exhibit 18. My
3 recollection is that we would have provided a
4 summary of our program versus a written policy as
5 shown in Exhibit 18.

6 Q. And what is your recollection of -- at
7 this time in January of 2014, what was the system
8 or what was the suspicious order monitoring? What
9 was happening at that time?

10 A. At that point in time, as we've seen, we
11 had daily reports based upon stores that may have
12 exceeded the threshold that we had set up, and if
13 stores flagged on those reports, they were
14 followed up on, and that was part of the
15 explanation in this document.

16 Q. So at this point in time in January of
17 2014, to the best of your recollection, the system
18 that was in place was the daily threshold reports
19 that you've talked about; correct?

20 A. Correct, yes.

21 Q. Now, at some point in 2015, did Giant
22 Eagle take steps to open a new distribution
23 facility where Giant Eagle was going to become a
24 distributor of Schedule II controlled substances?

25 A. Yes. We began processes. We began the





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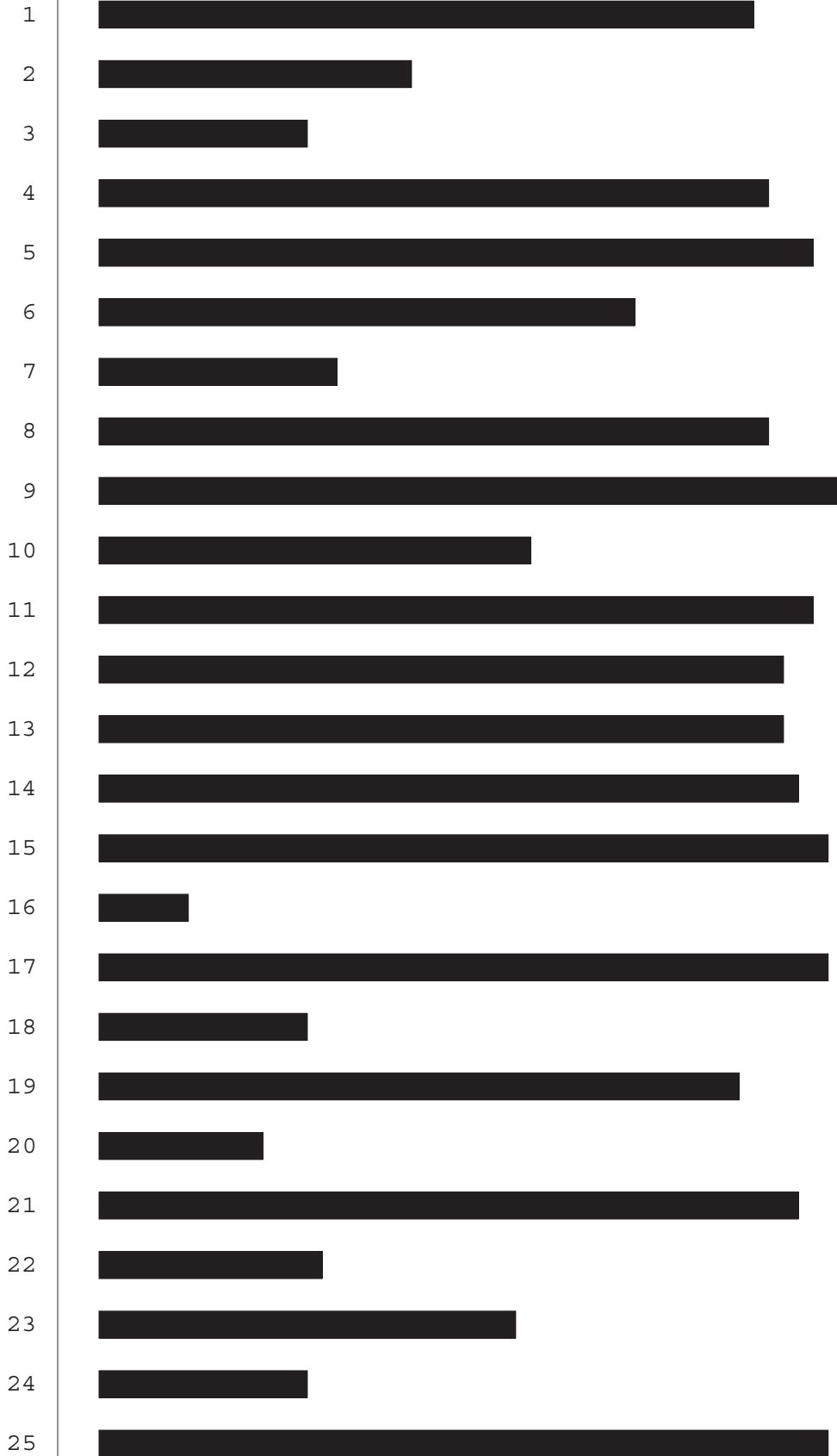


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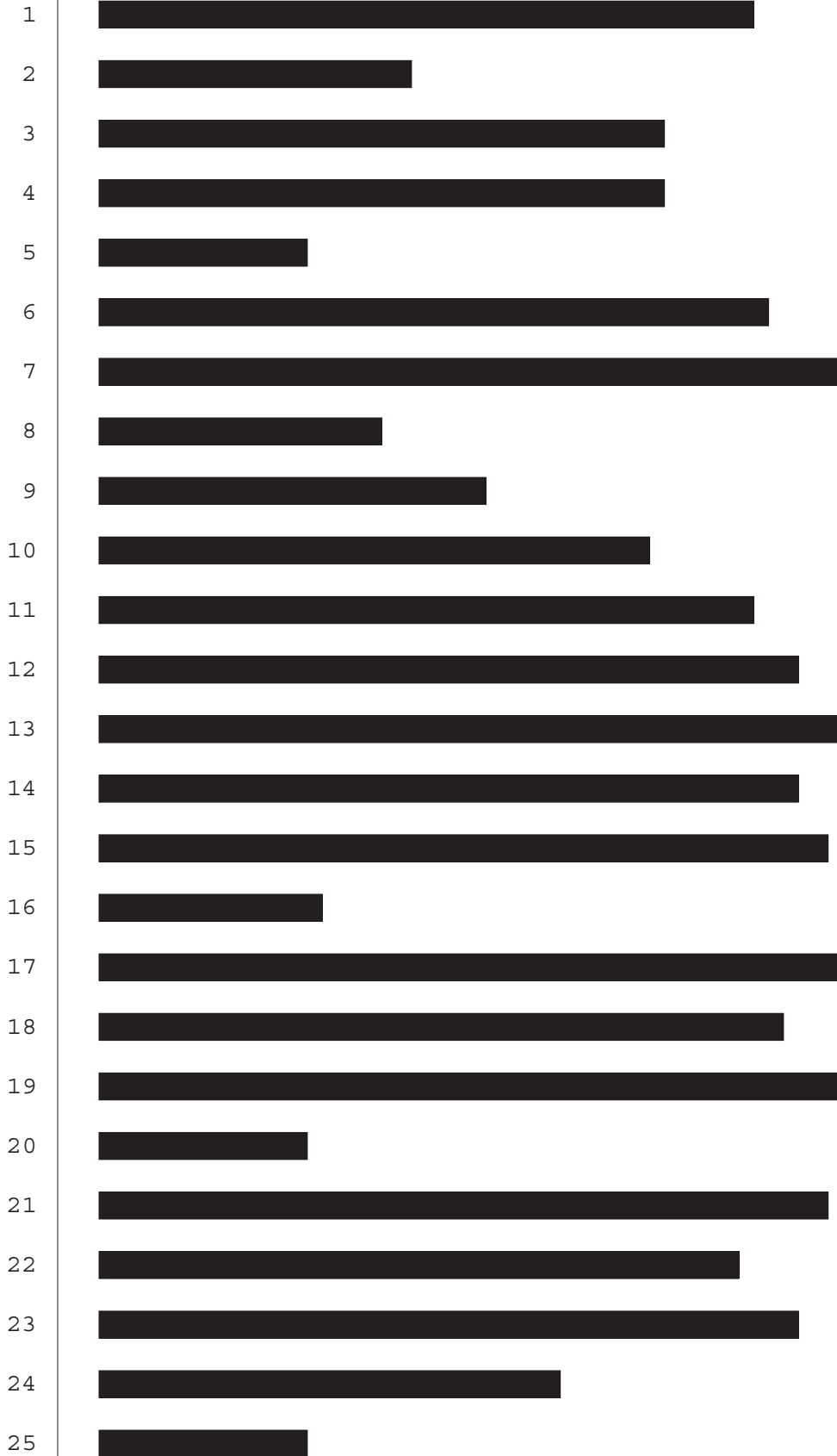






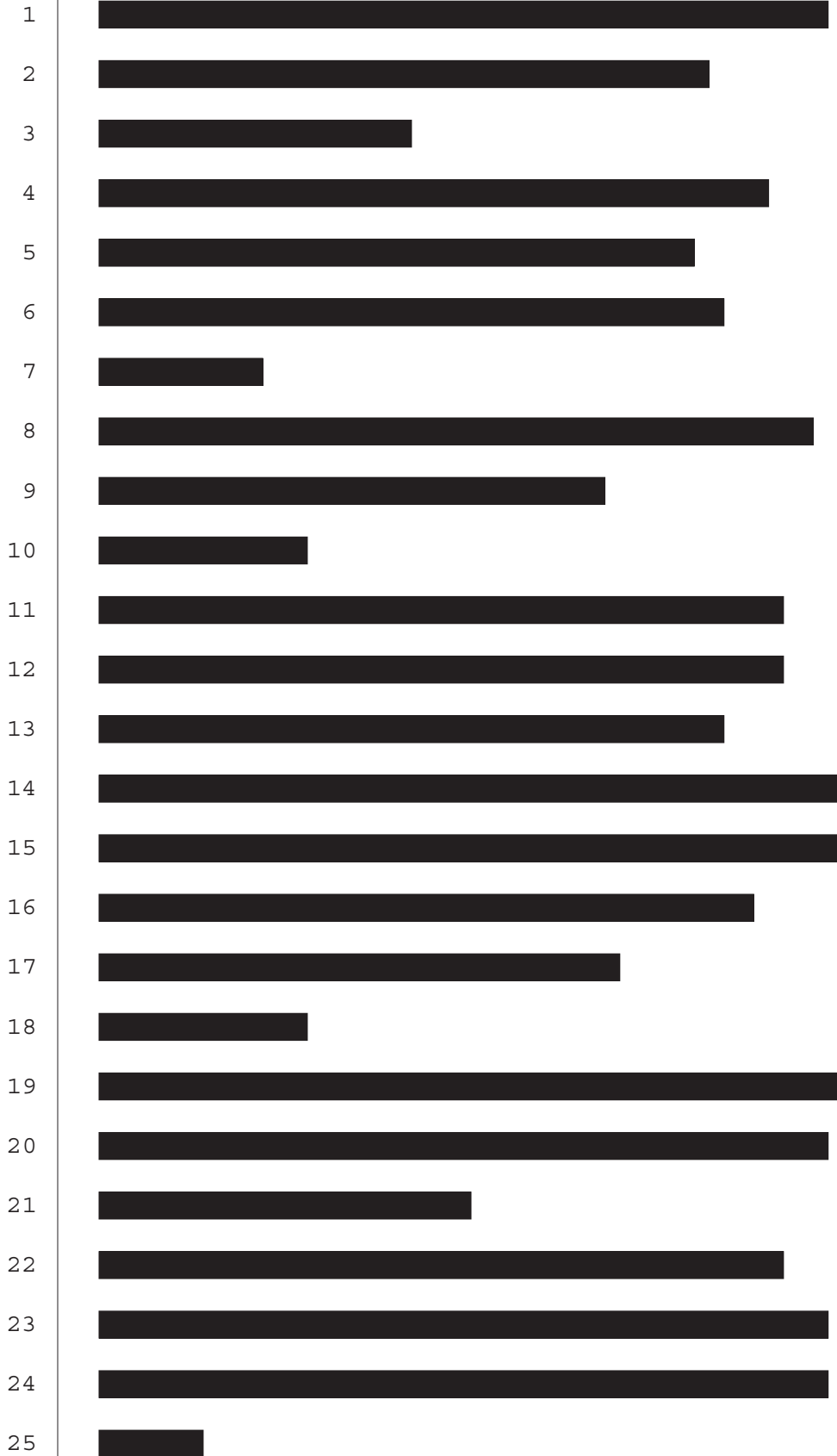






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1 Q. Did Giant Eagle have dynamic threshold
2 management at this time in November of 2016?

3 A. I'm not exactly sure what is meant by
4 dynamic threshold management. We had a threshold
5 management process that we've already discussed.
6 Whether I would term it dynamic, I don't know what
7 is meant by that dynamic part of threshold
8 management.

9 Q. This is indicating that there needs to
10 be some change to the threshold, the way in which
11 the threshold management is being operated, right,
12 from his point of view at least?

13 A. Maybe some improvement.

14 Q. And then the second bullet point is
15 "Re-engineering and formalizing the current
16 investigative process." Right?

17 A. That's what he says here, yes.

18 Q. We've talked about the investigative
19 process earlier in the day. You and
20 Mr. Rottinghaus did; correct?

21 A. Yes.

22 Q. And I believe you testified that there
23 was no formal -- up until this point in 2016,
24 there was no formal process for documenting the
25 investigations as they were concurring; correct?

1 A. We had a process to do the
2 investigations. Actually, not in all cases
3 documenting. A lot of the investigation took
4 place through communication with the PDL, the
5 pharmacy district leader, the stores, the
6 warehouse and so on.

7 Q. But as you sit here today, you can't
8 personally recall a specific investigation that
9 you undertook; correct?

10 MR. KOBRIN: Object to form.

11 THE WITNESS: I participated in some
12 investigations. I'm not sure if you mean if I led
13 an investigation.

14 BY MR. HUDSON:

15 Q. As you sit here today, do you have a
16 recollection of specific investigations of
17 specific stores that you led?

18 A. Not necessarily that I led, but I
19 participated in.

20 Q. That you participated in?

21 A. Yes.

22 Q. Which store was it of the 200?

23 MR. KOBRIN: Object to form.

24 THE WITNESS: I'm sure I had some
25 involvement in the store number 8 that we've

1 already discussed.

2 BY MR. HUDSON:

3 Q. Other than store number 8, any other
4 investigations you recall?

5 A. There were some. I can't remember
6 specific stores.

7 Q. Do you remember who you talked to at
8 those stores?

9 A. I would talk to the pharmacy manager.

10 Q. Do you remember the names of anybody in
11 particular that you talked to between 2009 and
12 2014?

13 MR. KOBRIN: Object to form.

14 THE WITNESS: I would have talked to the
15 pharmacy manager. Whether they've changed from
16 that point in time, I'm not sure, but I don't
17 recall the specific pharmacist that I talked to.
18 When I make a call to the pharmacy, I always ask
19 for the pharmacist in charge or the pharmacy
20 manager.

21 BY MR. HUDSON:

22 Q. What particular information did you ask
23 for when you made those calls?

24 MR. KOBRIN: Object to form.

25 THE WITNESS: I would ask about if there

1 is any -- some of the questions that we had on
2 our -- on one of the previous forms that we
3 discussed that had some of those six questions on
4 there.

5 BY MR. HUDSON:

6 Q. Did you ask the same questions every
7 time, or did they change?

8 A. They may have change a little bit.

9 Q. As you sit here today, can you remember
10 any specific questions that you asked any
11 pharmacist at any particular store between 2009
12 and 2014?

13 A. Some of the things that I was most
14 interested in when I asked were information on
15 pain clinics, if there were any new physicians in
16 the area.

17 Q. Anything else that you asked?

18 A. There may have been, but I can't recall
19 specifically.

20 Q. Did you ever uncover that there were
21 ever pain clinics or new physicians in the area?

22 A. Yes.

23 Q. And would that cause you to have a
24 suspicion that there would be a heightened risk
25 for diversion?

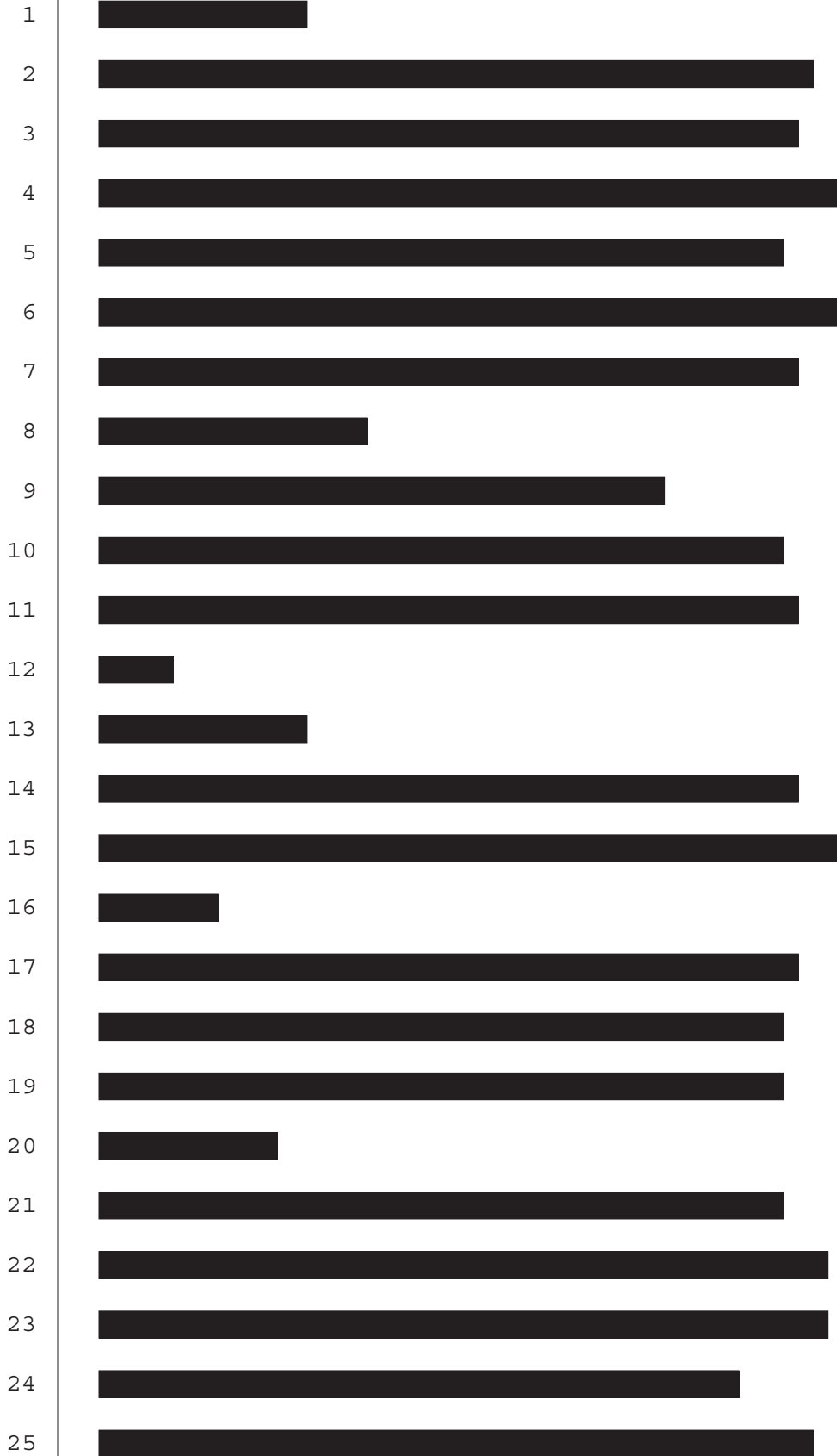
1 A. I wouldn't necessarily say a heightened
2 risk. I knew that there were probably going to be
3 more prescriptions coming from those facilities.
4 We look to fill prescriptions, legitimate
5 prescriptions. I had no reason to believe that if
6 a physician has written a prescription, that the
7 pharmacy was going to do their due diligence to
8 determine if that was a legitimate prescription or
9 not.

10 Q. Other than asking the pharmacist whether
11 there were new physicians or pain clinics in the
12 area, anything else that you can recall doing your
13 due diligence to investigate flagged orders?

14 MR. KOBRIN: Object to form. Asked and
15 answered.

16 THE WITNESS: Other than that, there may
17 have been situations where I had asked about
18 specifically what types of prescriptions that they
19 were seeing from the pain clinic or from the
20 physician's offices and if there was any reason
21 why they had a reason -- if there weren't any pain
22 clinics or new offices being opened, what the
23 pharmacy would have thought was a reason for the
24 increase in purchases in prescriptions.

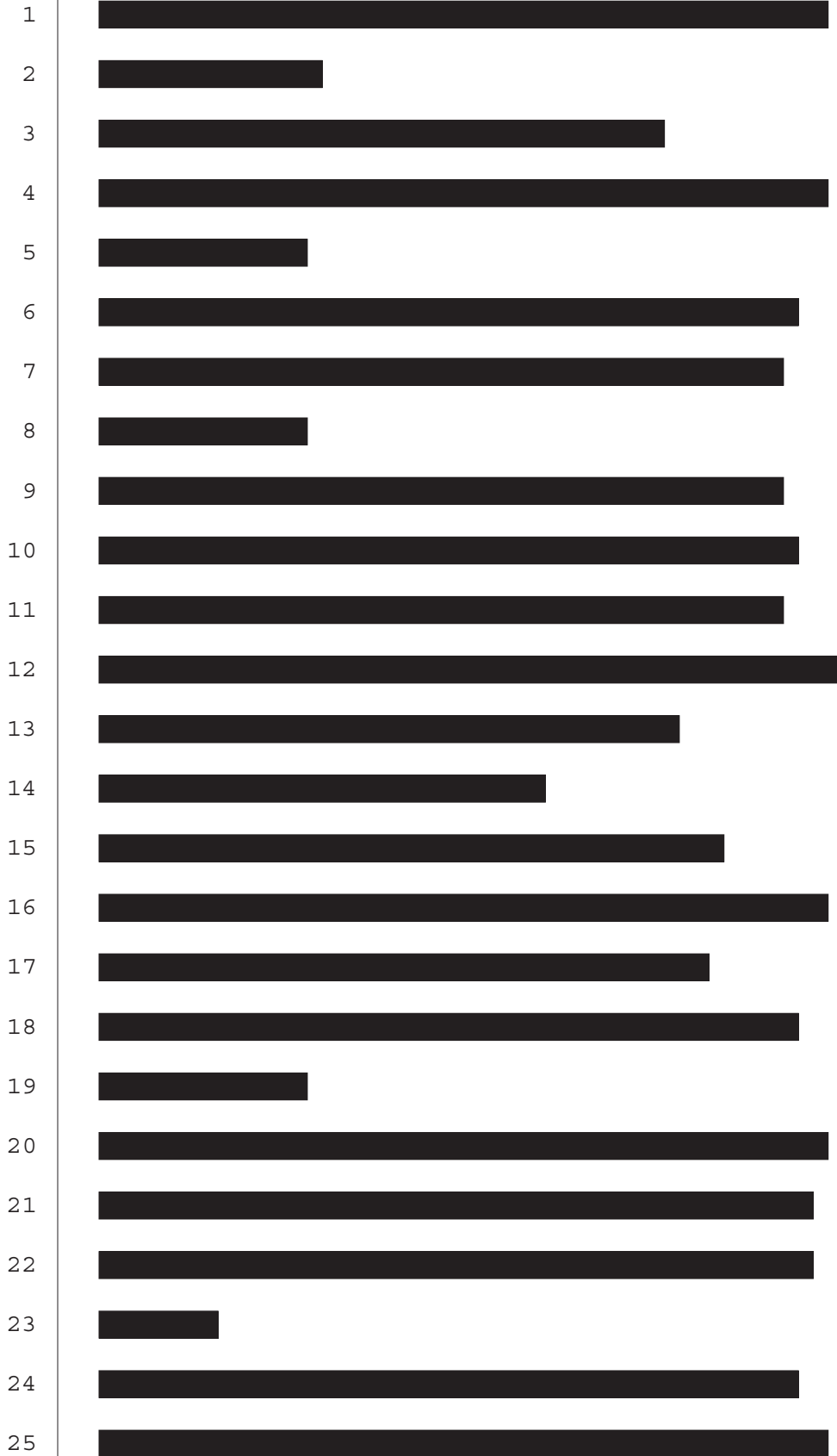
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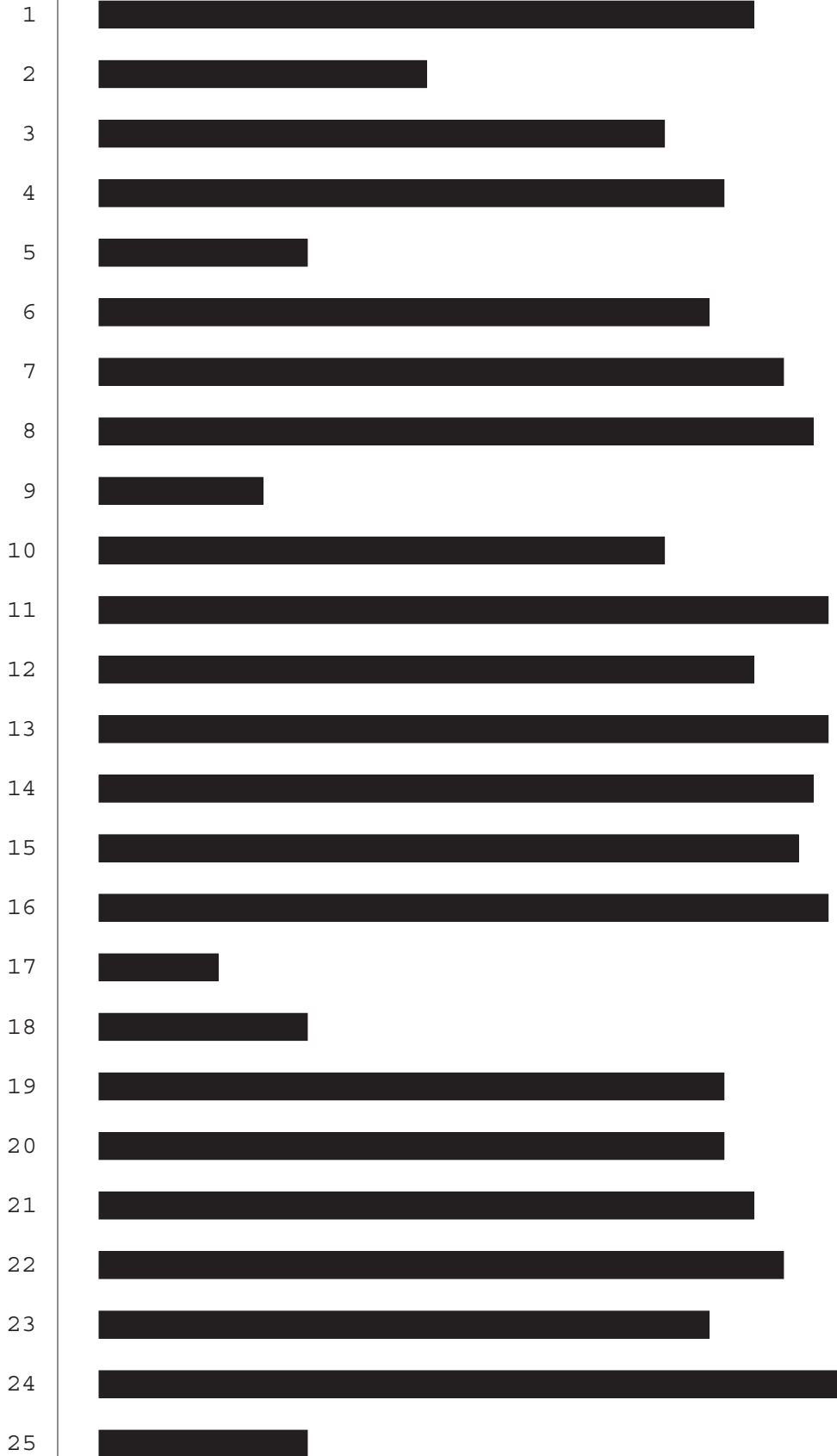


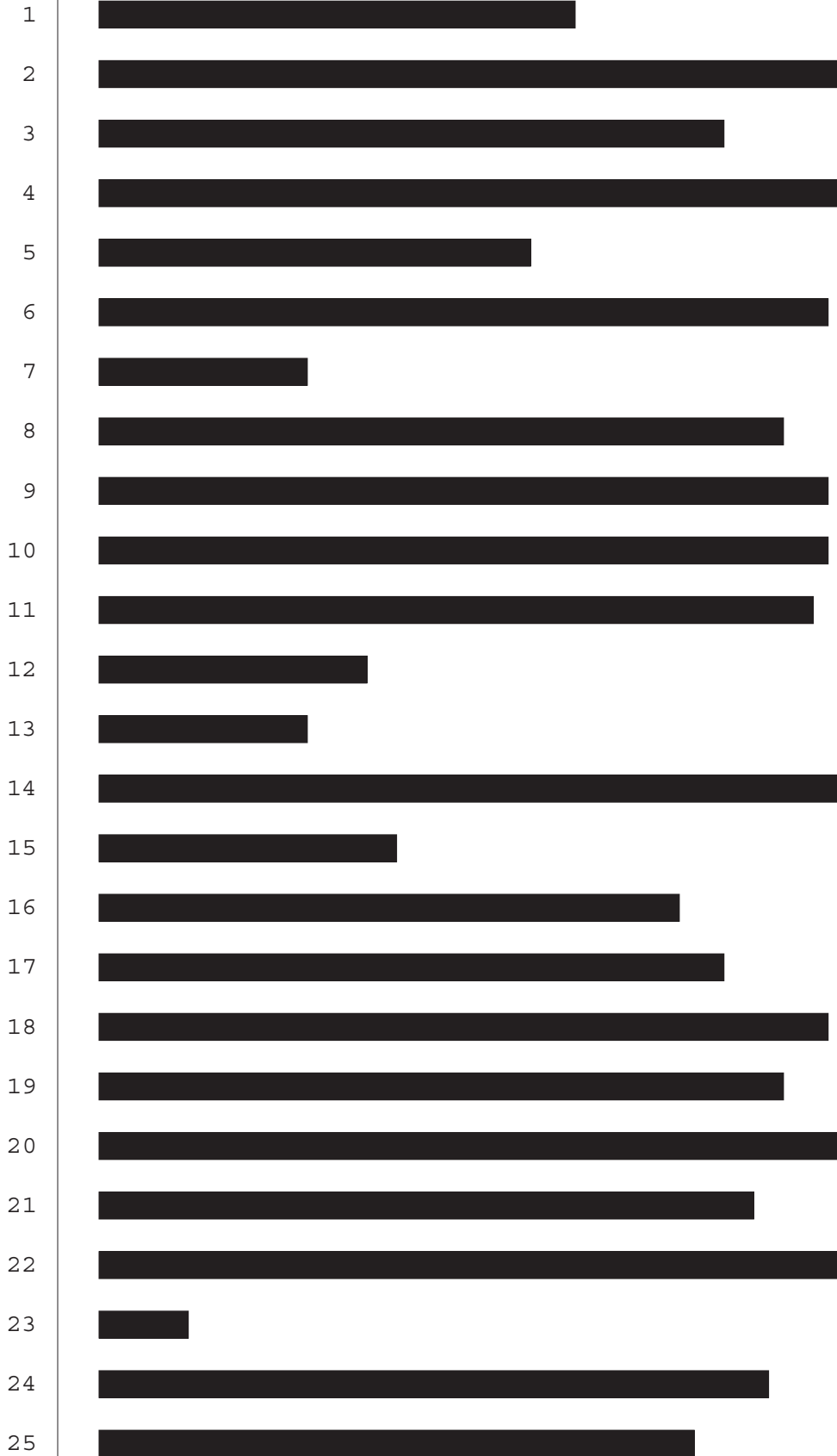
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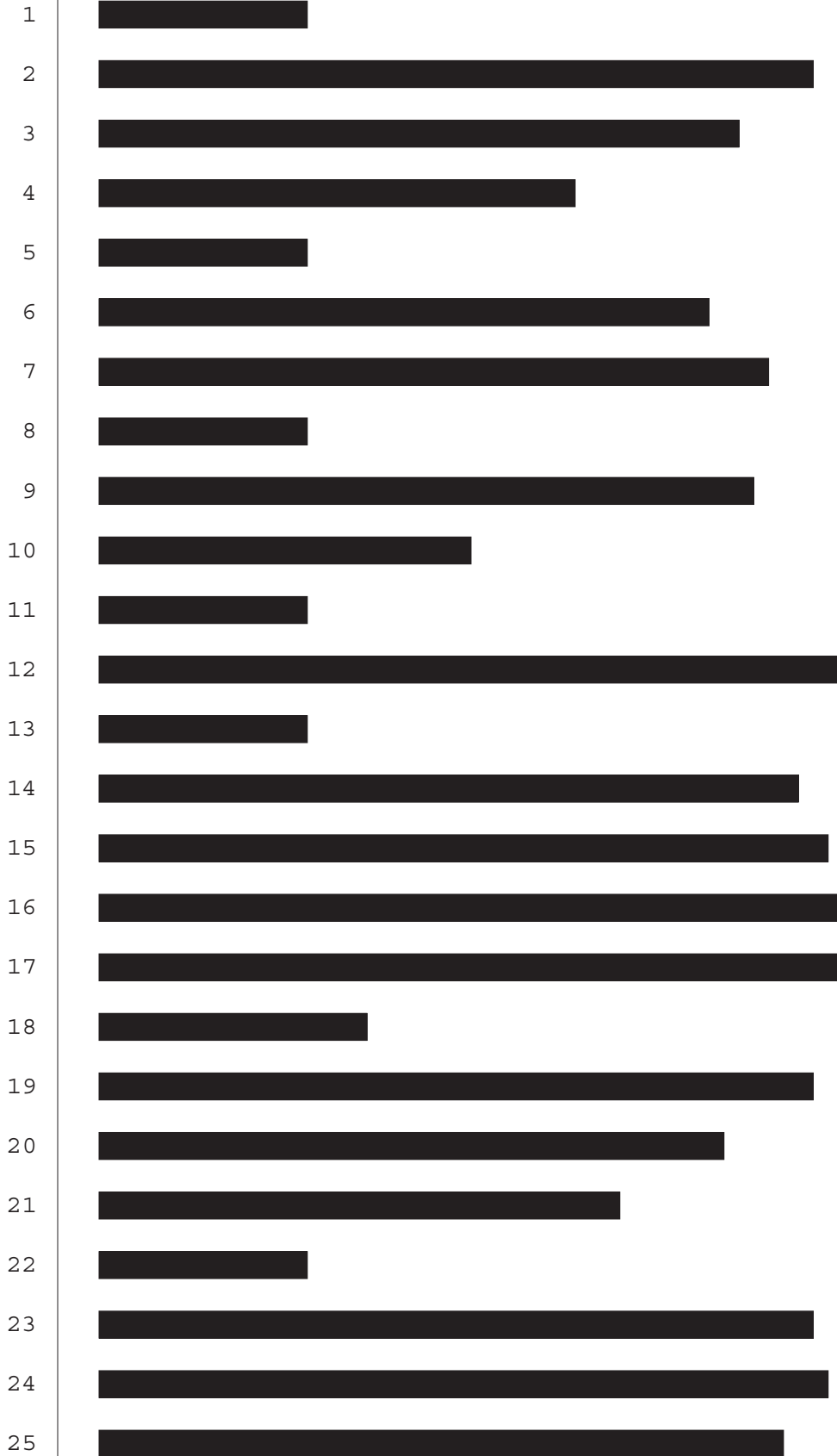
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1 MR. KOBRIN: And I move to strike the
2 testimony as being misled by the prior question.
3 We can talk about it at a break if you want. But
4 we're going to limit you on redirect to the time
5 that we've taken on redirect. So if you want to
6 clean something up later, you're not going to have
7 that opportunity.

8 BY MR. HUDSON:

9 Q. Mr. Chunderlik, here in the next
10 paragraph is a discussion of the scope of the new
11 policy; right?

12 A. Yes.

13 Q. It says, "This procedure applies to the
14 Giant Eagle order monitoring system team which
15 consists of members of pharmacy administration,
16 pharmacy operations, pharmacy compliance, pharmacy
17 merchandising, pharmacy technology, Giant Eagle RX
18 distribution center teams and loss prevention."
19 Right?

20 A. Yes.

21 Q. Was this policy more comprehensive than
22 previous policies in terms of who was involved in
23 the process?

24 A. It's written to appear to be, but in all
25 areas whenever we had our previous programs in

1 place, any one of these individuals could be
2 involved as well. It wasn't meant to add any
3 extra individuals.

4 Q. So the contemplation was that this same
5 group of individuals would have been previously
6 involved in the process?

7 A. Yes.

8 Q. In here it says the policy is the order
9 monitoring system team monitors pharmacy orders to
10 prevent possible diversion of controlled
11 substances; right?

12 A. Yes.

13 Q. And then the procedure, we've got 14
14 bullet points; correct?

15 MR. KOBRIN: Object to form.

16 THE WITNESS: Yes.

17 BY MR. HUDSON:

18 Q. And the first bullet point is just
19 indicating that controlled substances are supplied
20 to the pharmacies from McKesson, Anda and the new
21 Giant Eagle RX distribution center; right?

22 A. Yes.

23 Q. And the second bullet point is Schedule
24 II controlled substances are generated using the
25 controlled substance ordering system. In

1 parentheses it says CSOS. Right?

2 A. Yes.

3 Q. When was the CSOS system implemented, if
4 you know?

5 A. At the retail location, my recollection
6 is around April of 2015.

7 Q. Then the next bullet point is the OMS.
8 Is that a reference to the order monitoring
9 system?

10 A. Yes.

11 Q. Is that the new system that's going to
12 be implemented --

13 A. Yes.

14 Q. -- in conjunction with this policy?

15 A. Yes.

16 Q. The OMS uses algorithms to identify
17 controlled substance orders that require
18 investigation and documentation before releasing
19 the order for distribution.

20 Then there's a sub-bullet there. The OMS
21 algorithm generates limits based on monthly
22 thresholds and ordering characteristics specific
23 to the following. Then it lists pharmacy
24 location, chemical, generic product indicator,
25 National Drug Code and ordering pattern; correct?

1 A. Yes.

2 Q. If you could, just compare for me how
3 comprehensive these algorithms are for monitoring
4 orders compared to the previous daily threshold
5 reports that we talked about.

6 A. I think we modified the algorithm to --
7 we modified the algorithm that we were using to
8 identify any type of suspicious order or any type
9 of order.

10 Q. So now the monitoring is going to be
11 specific to the actual pharmacy location; right?

12 A. Yes.

13 Q. That was not something that -- the daily
14 threshold reports that were implemented in October
15 of 2013, not something they were able to do;
16 right?

17 A. That's correct.

18 Q. And then here it also indicates that
19 this monitoring is going to involve not just
20 monthly thresholds, but also ordering
21 characteristics; correct?

22 A. That's correct.

23 Q. That's something that the prior daily
24 threshold reports were not able to do; right?

25 A. Which bullet are you referring to?

1 Q. The clear bullet, the first.

2 A. I wouldn't necessarily say that our
3 previous system was not able to do some of these
4 things as well.

5 Q. We've looked at the reports before, but
6 the daily threshold reports that began being
7 generated in October of 2013, those were monthly
8 or those were thresholds of orders based upon
9 monthly rolling data; right?

10 A. Right, but they were chemical, generic
11 product indicator, National Drug Code as well. I
12 kind of want to make that distinction there. We
13 have bullets that look like we've added these
14 types of things, but they were part of the
15 original one as well.

16 Q. The original one in October of 2013
17 created thresholds based on GPI; right? The
18 generic product indicator was --

19 A. At the GPI 10 level.

20 Q. Right. And then it was specific that
21 thresholds were company-wide, but not store or
22 location specific; right?

23 A. Correct.

24 Q. And then the daily threshold reports,
25 those didn't include -- there was no data that was

1 being mined to create algorithms to flag or
2 monitor ordering characteristics, right, or
3 ordering patterns?

4 MR. KOBRIN: Object to form.

5 THE WITNESS: We have those reports
6 where we could -- I mean, they do show pattern.
7 They have the potential to show patterns.

8 BY MR. HUDSON:

9 Q. They show a pattern as it relates to
10 orders, but only the subset of orders that would
11 be exceeding a threshold; right?

12 In other words, the only thing being flagged
13 in the daily threshold reports that were in
14 existence from October of 2013 were orders that
15 were exceeding the threshold; right?

16 MR. KOBRIN: Object to form.

17 THE WITNESS: Those are the orders.
18 When a store -- the first time a store went over
19 the threshold, they would flag on the report, and
20 they could have the potential to stay on that
21 report till the end of the month, yes.

22 BY MR. HUDSON:

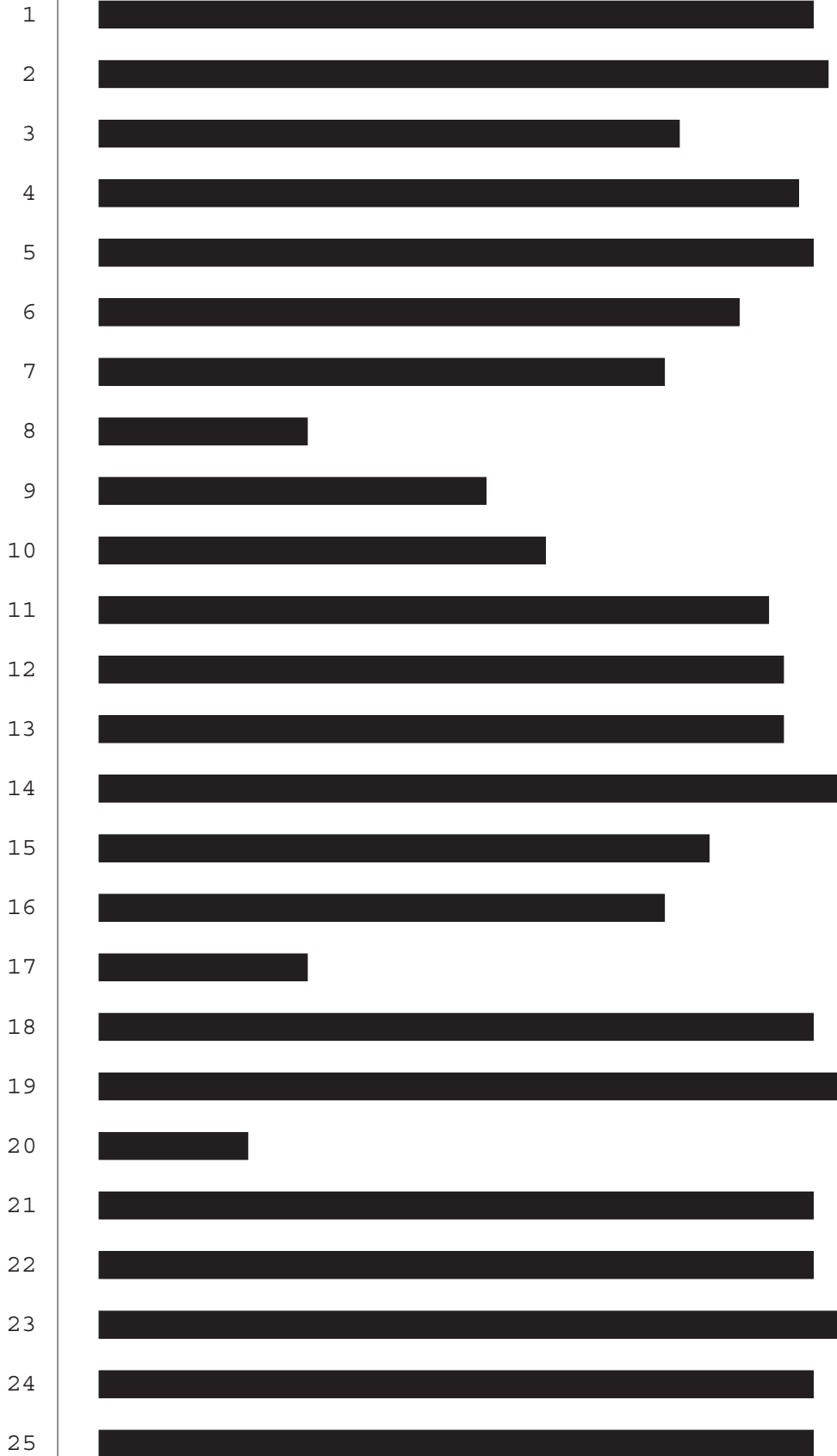
23 Q. Right. But if there wasn't an order
24 going from HBC to a pharmacy that tripped over the
25 threshold, that order would not be on those daily

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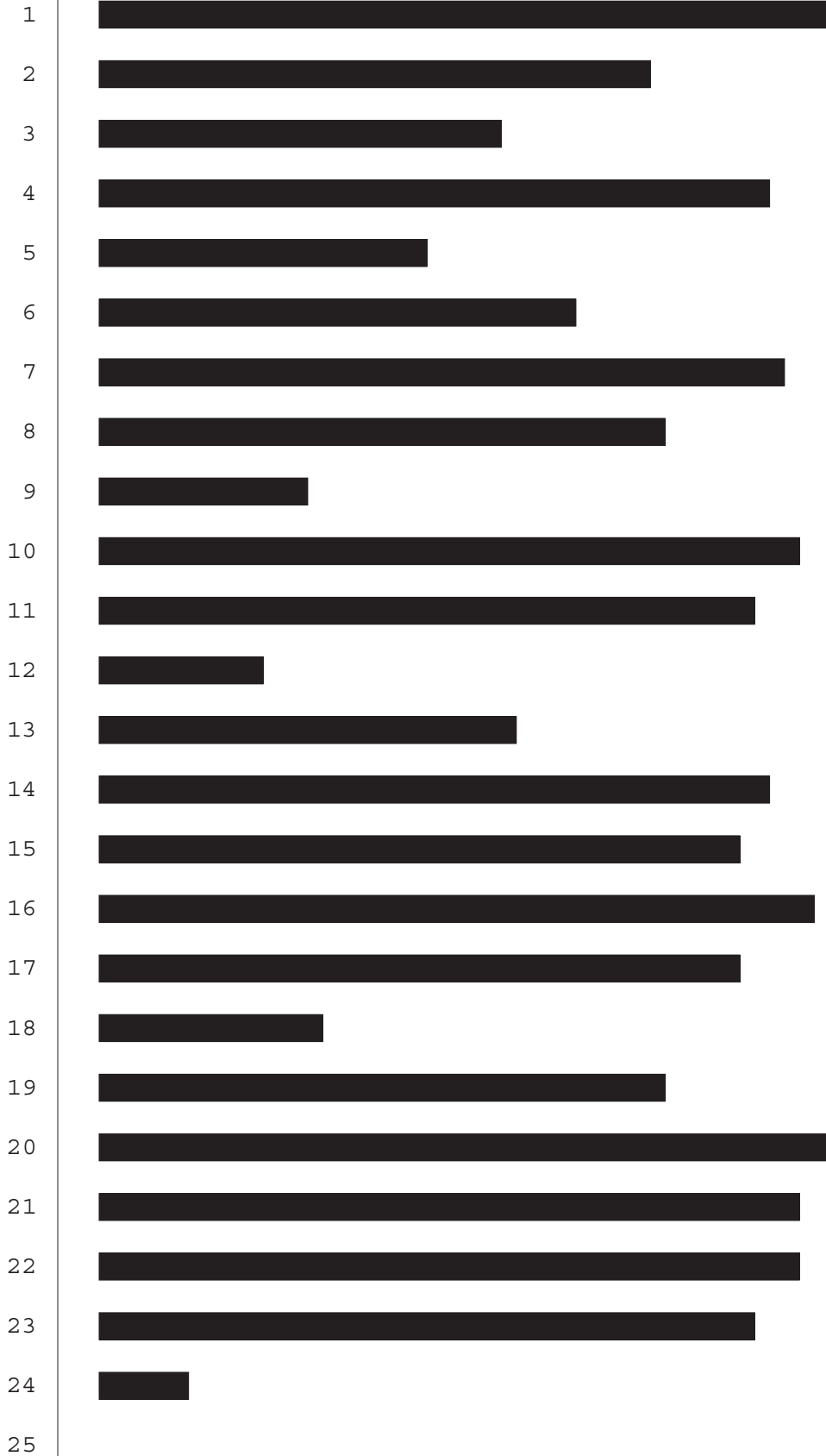












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MR. KOBRIN: Object to form. Misstates
the evidence.

THE WITNESS: That's correct.

MR. HUDSON: I don't have any further
questions.

MR. KOBRIN: Go off the record real
quick.

THE VIDEOGRAPHER: The time is 4:15 p.m.
We're going off the video record.

(Recess from 4:15 p.m. to 4:39 p.m.)

THE VIDEOGRAPHER: The time is 4:39 p.m.
We're now back on the video record.

EXAMINATION

BY MR. KOBRIN:

Q. Mr. Chunderlik, do you remember being
asked questions about the so-called suspicious
order regulation at Section 1301.74(b) this
morning?

A. Yes.

Q. And that is, I believe, Exhibit 3, if
you want to look at that. During any time during
your deposition, were you shown the security
regulation, which is at 1301.71 of the Code of

1 Federal Regulations?

2 A. No.

3 Q. Sitting here today, what do you
4 understand the security regulation to be?

5 A. The security regulation, it's a system
6 of controls to put in place to protect the
7 integrity and the safety of medication and to help
8 prevent diversion into illicit markets.

9 Q. Do you understand that to be the main
10 requirement that distributors are supposed to meet
11 under the Controlled Substances Act?

12 MR. HUDSON: Object to the form.

13 THE WITNESS: That is a section of it
14 and it is -- there are multiple pieces that go
15 along with that.

16 BY MR. KOBRIN:

17 Q. Is that the overarching requirement to
18 your understanding?

19 A. Yes, yes.

20 Q. Did HBC meet that requirement at all
21 times --

22 MR. HUDSON: Object to the form.

23 BY MR. KOBRIN:

24 Q. -- that are relevant to this litigation,
25 so starting in 2009 and running all the way to the

1 present?

2 A. Yes.

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13 Q. Looking back at 1301.74, it says, "The
14 registrant must design and operate a system to
15 disclose to the registrant suspicious orders of
16 controlled substances."

17 Do you understand that to be the only factor
18 that's taken into consideration for the security
19 requirement?

20 A. No. That's a subsection of the entire
21 requirement.

22 Q. Can you think of any other factors? For
23 example, is the physical security of the warehouse
24 one of the factors?

25 A. Yes, it is.

1 Q. Is record keeping one of the factors?

2 A. Record keeping is one of the factors,
3 yes.

4 Q. Are controls on the way that the
5 controlled substances are distributed, is that one
6 of the factors?

7 A. Yes.

8 Q. Is security at the warehouse one of the
9 factors?

10 A. Yes.

11 Q. Is the type of drugs being distributed
12 one of the factors?

13 A. Yes.

14 Q. Is to whom the drugs are being
15 distributed to one of the factors?

16 A. Yes.

17 Q. Did HBC or was HBC ever a registered
18 distributor of Schedule II controlled substances?

19 A. No.

20 Q. Are opioids generally under Schedule II?

21 A. Generally, yes.

22 Q. Is there an exception? Was there ever a
23 time when opioids were not Schedule II or any kind
24 of particular opioid was not a Schedule II?

25 A. Yes. Prior to October of 2014,

1 hydrocodone and hydrocodone combination products
2 were in Schedule III.

3 Q. And after October of 2014, what were
4 they reclassified as?

5 A. All hydrocodone and hydrocodone
6 combination products were rescheduled as Schedule
7 II controlled substances.

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1 over the receipt of controlled substances it was
2 handling when it determined it was in compliance
3 with the security requirements?

4 A. Yes.

5 Q. Did HBC consider the physical security
6 features of its facility --

7 A. Yes.

8 Q. -- when it determined it was in
9 compliance with the security requirements?

10 A. Yes.

11 Q. Did HBC get frequent visits from the
12 DEA?

13 A. They got visits from the DEA, yes.

14 Q. What was the purpose of those visits?

15 A. To do reconciliation audits to see if we
16 were also complying with the security requirements
17 that were required as part of the Act and that we
18 had controls in place.

19 Q. Did the DEA ever tell HBC that they were
20 not meeting the security requirements under the
21 regulations, under the regulation related to the
22 Controlled Substances Act?

23 A. Not that I know of, no.

24 Q. With respect to the HBC warehouse that
25 you visited, do you recall whether it had a locked











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1 BY MR. KOBRIN:

2 Q. When a pharmacist fills a controlled
3 substance prescription, is the store inventory
4 immediately updated for outgoing prescriptions?

5 A. Yes.

6 Q. At the end of the day, is there a check
7 of remaining balances of the controlled substance
8 at the stores?

9 A. In controlled substances and Schedule II
10 items, the pharmacy does a perpetual back count of
11 what should be remaining on the shelf after they
12 dispense a prescription.

13 Q. What does that mean, a perpetual back
14 count?

15 A. After each time a prescription goes
16 through the filling process, the pharmacist is
17 required to go back and count the remaining
18 inventory that's in the -- for that product and
19 log it into the electronic database within our
20 pharmacy data management system.

21 Q. Are you familiar with the term monthly
22 narc audit?

23 A. I am, yes.

24 Q. What is a monthly narc audit?

25 A. The monthly narc audit is a program that

1 was developed by Giant Eagle to reconcile
2 inventory. It will show the purchases for a given
3 time period as to when the audit was conducted and
4 show all dispensing. And at the end of doing that
5 calculation, there is an actual -- there is an
6 expected on-hand count that is shown to the
7 pharmacy.

8 They do the count, and then they update it
9 with the actual count that is remaining in
10 inventory.

11 Q. Do you also have annual audits of
12 inventories at Giant Eagle pharmacies?

13 A. We do annual inventory counts at each
14 pharmacy, yes, of all controlled substances.

15 Q. Can you tell me what a PDL is?

16 A. PDL is an acronym at Giant Eagle for
17 pharmacy district leader.

18 Q. What do the PDLs do?

19 A. The PDLs -- each PDL has roughly 29 to
20 33 stores that they are responsible for business
21 oversight of a particular region.

22 Q. Do they regularly visit the stores?

23 A. They do regularly visit the stores, yes.

24 Q. When the compliance team did due
25 diligence on any orders that flagged or any orders

1 that they wanted to investigate further, would the
2 PDLs be a good source of information as to what
3 was going on --

4 A. The PDL is a very good source of
5 information, yes.

6 Q. Did you and others at Giant Eagle
7 corporate office utilize the PDLs when doing due
8 diligence at stores and on orders?

9 A. Yes, sir; yes.

10 Q. Do PDLs conduct audits or inquiries
11 concerning procedures at the stores?

12 A. They do.

13 Q. Do they supervise the training of
14 pharmacists at all? Are they involved in the
15 supervising and training of pharmacists?

16 A. They do have a part in supervising the
17 training. As part of their audit, they would look
18 to see if required training was being conducted by
19 the pharmacist or that team members were doing
20 some computer-based training programs that had
21 been assigned to them.

22 Q. That would be like continuing education?

23 A. Possibly, yes.

24 Q. Do the stores, do the Giant Eagle
25 pharmacy stores work with local law enforcement?

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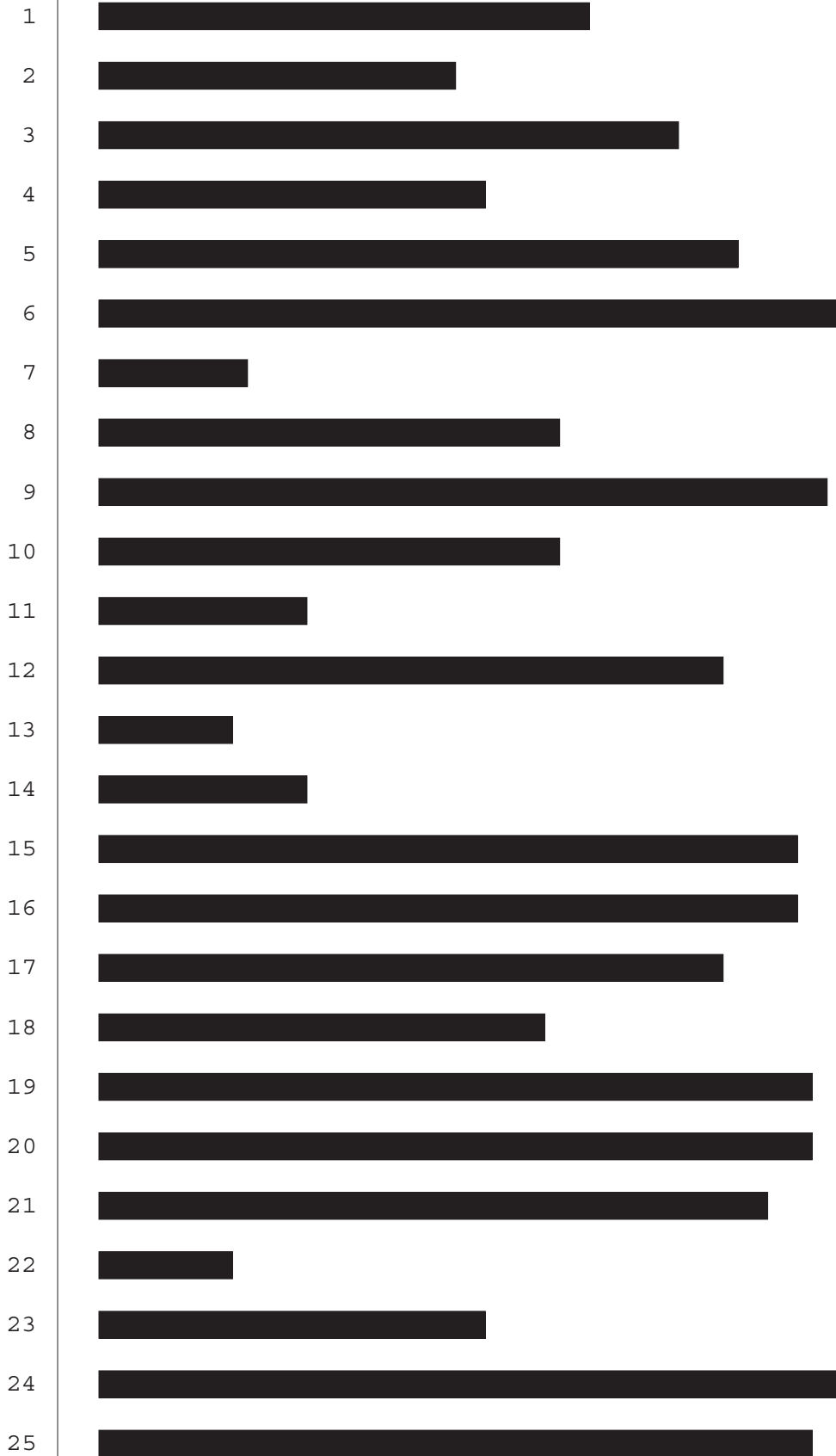
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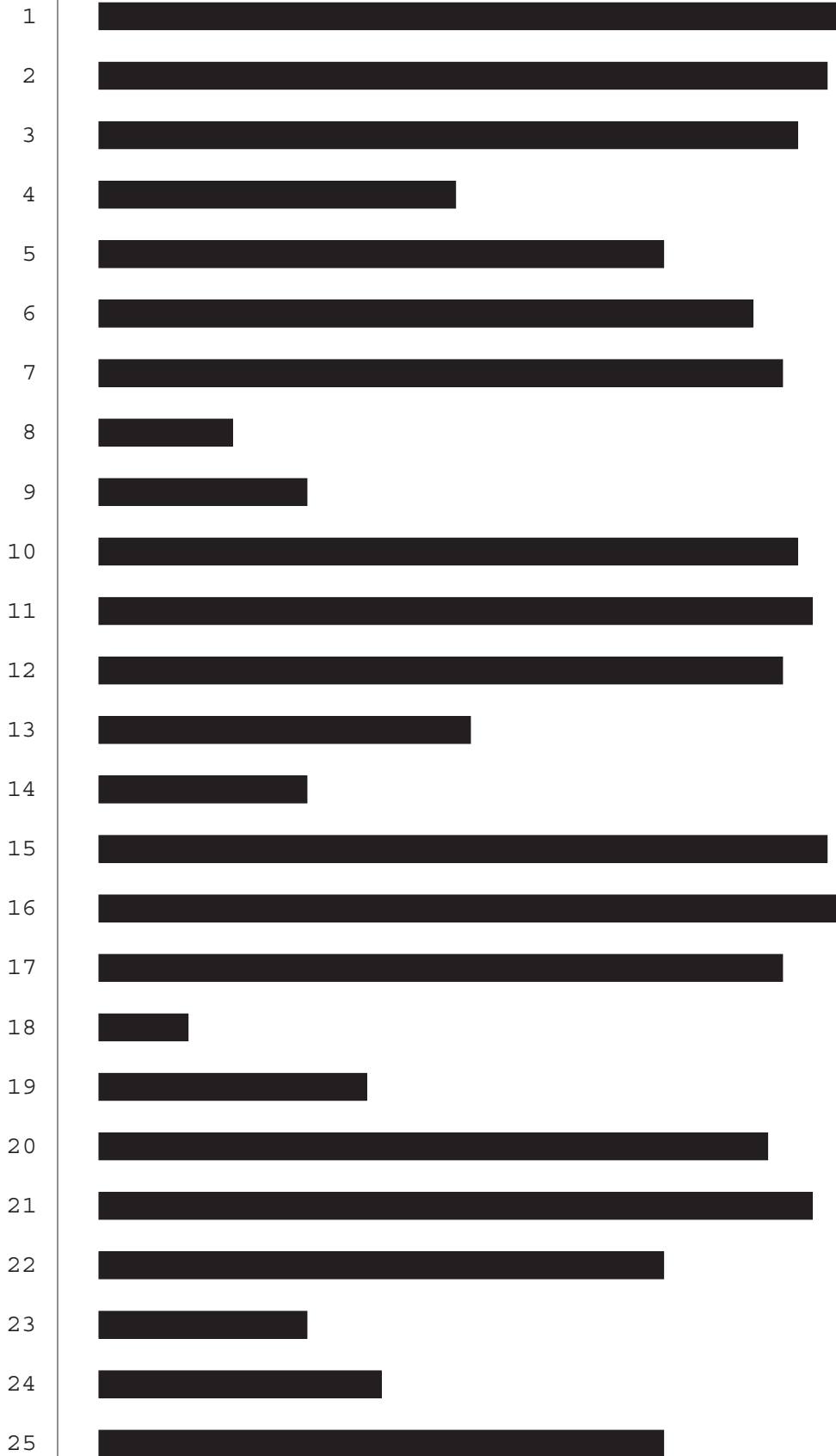
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MR. HUDSON: No further questions.

THE VIDEOGRAPHER: The time is 5:38 p.m.

This concludes this video deposition.

(Whereupon, at 5:38 p.m., the taking of
the instant deposition ceased.)

1 COMMONWEALTH OF PENNSYLVANIA)

2 COUNTY OF ALLEGHENY) SS:

3 C E R T I F I C A T E

4 I, Ann Medis, Registered Professional
5 Reporter, Certified Livenote Reporter and Notary
6 Public within and for the Commonwealth of
7 Pennsylvania, do hereby certify:

8 That GEORGE CHUNDERLIK, the witness
9 whose deposition is hereinbefore set forth, was
10 duly sworn by me and that such deposition is a
11 true record of the testimony given by such
12 witness.

13 I further certify the inspection,
14 reading and signing of said deposition were not
15 waived by counsel for the respective parties and
16 by the witness.

17 I further certify that I am not related
18 to any of the parties to this action by blood or
19 marriage and that I am in no way interested in the
20 outcome of this matter.

21 IN WITNESS WHEREOF, I have hereunto set
22 my hand this 21st day of January, 2019.

23
24 _____
Notary Public
25

COMMONWEALTH OF PENNSYLVANIA) E R R A T A
COUNTY OF ALLEGHENY) S H E E T

Page	Line	Change and reason for change:
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In all other respects, the transcript is true and correct.